





THE  
ROYAL SUPREMACY

NOT  
AN ARBITRARY AUTHORITY  
BUT  
LIMITED BY THE LAWS OF THE CHURCH,  
OF WHICH  
KINGS ARE MEMBERS.

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BY THE REV.  
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PART I.  
ANCIENT PRECEDENTS.

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“ When thou hearest ‘ Render unto Cæsar the things of Cæsar,’ know that He speaketh only of those things, which in no way injure Godliness ; so that any thing of that sort is the tribute and custom, not of Cæsar, but of the Devil.”

ST. CHRYSOSTOM, *Hom.* 70, on *St. Matt.* xxii. 21.

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## LETTER,

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MY DEAR FRIEND,

THE course which the cause now before the Judicial Committee of the Privy Council has taken, has probably awakened some of us as out of a dream. At first, our only anxiety was, lest any court, having, *as a court*, supreme authority in this realm, should decide contrary to the teaching of the Church, and to the truth of God. If it should decide right, or not decide wrong, we felt that it would be a great mercy of God; if otherwise, we thought that it would (as it would in a measure) be like the acts of Valens, or any other power wrongly exercised. But, as the pleadings went on day after day, a new feeling came over us.

We had always taught the doctrine of Baptismal Regeneration unhesitatingly, not only as being the truth of God, as part of the "faith, once for all

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delivered to the saints," the faith of the universal Church from the first, and, *therefore*, as the faith of the Church of England; but we had always seen it in every formulary of the Church;—in the Nicene Creed, in the Baptismal Services, the Service for Confirmation, the Catechism in both its parts, and witnessed to in the Articles and Homilies. We had seen it as plain as the sun's light, or as any other Article of the Creed. It was, then, beyond expression painful, to have even a question raised judicially, whether it were the doctrine of the Church of England.

We had been content that the question should not be raised. We felt that the evils and confusions of the Church did not lie in her mere present neglect of discipline; nor could they be remedied by any sudden restoration of it. The evil and the remedy lie far deeper. The evil was the neglect and lukewarmness of the last century; the remedy, "not by might, nor by power, but by My Spirit, saith the Lord of Hosts." We felt, and had seen with our eyes, that God's Holy Spirit was working through our whole Church; and we waited patiently until He should, as the Church prays continually, "lead all into the way of truth," that "they should hold the Faith in unity of spirit, in the bond of peace, and in righteousness of life."

Meantime, there is nothing (which is not of faith) more certain, than that good men, even amid partial error of understanding, or amid invincible



prejudice, believe far more truly than they speak, or dare even to own to themselves. And the hope of the Church is, not in any being severed from her, even though they do not yet believe all which she teaches; but that God would open their minds, as He has the minds and hearts of so many, to the full reception of His truth. Better, for the time, that uncertain and perplexing language should be used, even by some of the priests, whose "mouths" should "keep knowledge," than that souls should be led to part from the Church itself, the Body of Christ, the Sacraments, and the very hope of being led into the full truth.

But it is one thing to be content to continue in our present confusion, until God by His Holy Spirit bring full light and order into it; another, that any court, in any way seeming to derive any sanction from the Church, should decide, that what is contrary to the truth is consistent with the discipline of the Church of England. It is one thing, under an emergency, to bear, for love's sake, with those who believe or teach erroneously, lest a greater evil should ensue; quite another, that it should be declared that the Church meant, in an article of the Faith, to leave it as an open question, for the priests to believe and teach, as they, in their individual opinions, held to be right. It is one thing, to bear for love's sake even with an infectious disease; quite another, to declare it to be matter of indifference whether our children are whole or sick.

#### 4 *Judgments of a Court alter not Doctrine of the Church.*

To illustrate this from the confusions of ancient times on a yet more solemn subject, His Being, Who is the object of our faith and love. In the Arian and semi-Arian conflicts, persons were perplexed by what words to express their belief. Even after the Council of Nice had made the word "of One Substance" authoritative, S. Cyril of Jerusalem shrunk from it; as a priest, he used repeatedly in his Catechetical lectures the semi-Arian formula, "like in all things," and yet was canonically consecrated Bishop of Jerusalem<sup>1</sup>. St. Athanasius speaks tenderly of some as "much loved," and "brethren<sup>2</sup>," who shrunk from the use of the Nicene word because it had been used in an heretical sense, and a council had therefore formerly laid it aside. St. Hilary calls them "most holy men<sup>3</sup>." St. Basil<sup>4</sup> was suspected of favouring the semi-Arian heresy, because he laboured to lead them gently to the truth. Yet these great Bishops and Confessors would not have sanctioned the heretical formula, as did the Council of Ariminum, as though it were all one with the truth. To bear with those entangled in unsound statements is often charity; authoritatively to sanction them is to take part against Christ.

True, a judicial decision, even of the highest

<sup>1</sup> See authorities in Preface to St. Cyril, pp. xii., xiii. Oxf. Tr.

<sup>2</sup> See S. Athanas. Counc. Arim. § 41. 43, and p. 157, note <sup>1</sup>, Oxf. Tr.

<sup>3</sup> Ibid. and p. 103, note <sup>t</sup>.

<sup>4</sup> See Church of the Fathers, c. Labours of Basil.

court, cannot affect the doctrine of the Church of England: the plain meaning of her formularies must be the same. The judgment, if unfavourable, could affect discipline only. A wrong decision, even in a supreme court, cannot alter the faith of the Church. The meaning of the article of the Creed, "one baptism for the remission of sins," must be that one meaning in which the whole Catholic Church ever understood it. No wrong interpretation put upon it by a Court, nor any wrong judgment passed in neglect of it, can alter the sense in which the Church received it from the Apostles, and still receives it. The office of the Church in synod, and even the highest judicial office, are distinct. The Faith of the Church is determined by herself in her decrees and canons: the office even of the highest court, is only to apply her decision to the particular case before it. It may have to gather for itself, inform itself (as in the present pleadings) what the true doctrine is, but, whatever its decision be, its very office is to judge in a certain cause, not to explain the doctrine of the Church. Its office is to do justice to an individual, not to legislate for the Church, or to determine the Church's doctrine. The subject of doctrine is but incidental to the office of the judge. Take the Church of Africa in primitive times: its canons, recognized by the Church, forbade appeals in any cause "beyond seas" (*transmarina judicia*), on pain of excommunication. In ancient times there was no appeal from England. No one could imagine

that in such cases the decision even of a metropolitan, if heterodox, would make the whole African or Anglican Church heretical. Else the judicial sentence of a single Bishop would be equivalent to a Provincial Council received in that province; and one man, who might himself be a heretic, might by his own single act cut off his Church from the Body of Christ. The infamous Dioscorus, until condemned, would have made the Church of Alexandria heretical, or Acacius might that of Constantinople.

No authority less than that of the Church can decide in her name, that she does not receive the Creeds which she uses, in the sense in which the Church has ever received them. If any authority, not co-extensive with herself, decides wrongly, he condemns himself, not her. He may embarrass her, may cripple her functions; he cannot alter her faith. A judge or court in the Church of England is instituted to judge according to the Creeds, not to over-ride them, nor by any private interpretation to affix, in her name, a meaning to them other than that in which the Church has ever understood them. Her prayers must have the same doctrinal meaning which they had in the fifth century, or before it: and now, as then, "the devotions of the Church determine her faith<sup>5</sup>." The Faith which the Church of England has received in the Creed and Prayers of the Catholic

<sup>5</sup> "Ut legem credendi statuat lex supplicandi," said on this very subject of the forgiveness of original sin through Baptism, by S. Celestine, 1 Ep. § 8. ap. Harduin. Concil. I. 1257.



Church, is hers, so long as by some contrary act (which God forbid!) she does not disavow it.

To instance very sacred doctrine. If semi-Arianism were again to revive in any Church, and it were contended (as the Council of Ariminum was persuaded), that the formula "like in all things" is identical with the hallowed word of the Nicene Creed, "of One Substance," and this were accepted by any Court, (as it was to the deep sorrow of the Church then by that Council,) would any one contend that until that decision be reversed, the Nicene Creed no longer meant in that Church the same as before? If the semi-Arianism of Dr. Samuel Clarke had been acquitted by a Court, or the Tritheism of Dr. Sherlock (instead of being condemned at Oxford, as "false, impious, heretical"), had been acquitted even by a Supreme Court, would any hold that the Church, when confessing before God the Nicene or Athanasian Creeds, would be confessing the faith less distinctly than before? Or, to instance a doctrine less defined than Baptismal regeneration, because assumed—the Inspiration of Holy Scripture:—not only are not its nature and limits defined; but, being assumed as unquestioned, the doctrine itself is implied, not stated, either in the Creeds or Articles. The Nicene Creed asserts, that the Holy Ghost "spake by the Prophets;" it *implies* the authority of Holy Scripture in that it says, "according to the Scriptures." The Articles declare what Scriptures are "canonical," that they

“contain all things necessary to salvation” (Art. vi.): they imply (Art. viii.) that what is “proved thereby” “ought thoroughly to be received and believed.” But this is very far short, of course, of what the whole Church has always believed as to the Inspiration of the Scripture. Suppose then, any Neological theory, on the inspiration of the Divine Scriptures, to be brought before the Judicial Committee of the Privy Council, and that it were decided wrongly; would it be contended that the Church of England left “the plenary inspiration of Holy Scripture” an open question? *Ejus est legem interpretari, cujus est condere.* “He alone can interpret a law authoritatively, who can make it<sup>6</sup>.” A supreme court is supreme for its own ends, not for ends for which it was not instituted. It relates to “persons” and “causes,” not to the faith of the Church. That was never given into its keeping. The faith of the Church has been settled, as successive heresies arose, by the Canons of Councils, Provincial (if received subsequently by the whole Church), or General; not by insulated judgments of Bishops or Courts. The Faith has descended to us in one continuous stream from Christ, its Author. It has, through the guidance of the Holy Spirit, been fenced and secured against heresies in the successive Councils of the Church. It is now attested concurrently by the whole Church.

<sup>6</sup> Collier (t. i. p. 284) quotes as a maxim of Lord Bacon, that the office of a judge is “jus dicere” not “jus dare.”

The Acts of the Church cannot be rescinded, nor explained, nor expounded authoritatively, by any authority less than the Church. When explanations have been needed, the Church itself has made them. The Nicene Creed is an authoritative explanation of the Apostles'; the Athanasian of the Nicene. The Church, in Œcumenical Councils, rehearses and sanctions Canons, before partially received. Judicial sentences belong altogether to another class. By their very title they relate to individual cases,—are applications of the existing rule to these. They are not authorities for the Church; but, if right, from the Church. They are not the ground of Canons: but, if true, they flow out of them; if false, they are, to the Church, *ipso facto*, null and void. They do not doctrinally bind the Church, but deserve her Anathema.

But, although judicial sentences cannot affect the real *doctrine* of the Church, they may very seriously affect her as to her discipline. As judicial sentences, they are authoritative until they are rescinded. Bishops ought to act against them if wrong. They cannot bind, even in discipline, the authority which Bishops have from God. Even an Apostle has said, "We can do nothing against the truth, but for the truth<sup>7</sup>." And God would, doubtless, in any conflict of faith, give Bishops grace so to act. All authority is from God; if authority does any thing against the truth of

<sup>7</sup> 2 Cor. xiii. 8.

God, it annuls itself. A layman may protest against and withstand a Bishop; a Bishop against a Provincial Council; St. Athanasius against the world: but this is not the well-ordered condition of the Church. It is as men extinguish a fire, even with the destruction of property; and till this state of things is remedied, the Church is very seriously crippled in her functions. She has no right to give up the trust she has received, in discipline any more than in doctrine.

Our eyes are now opened: we dare not close them, nor act as if they had not been opened. We see now on the brink of what peril the Church is placed; and even if, by God's mercy, we escape at this time, we dare not leave the flood-gates open which might again admit it. We have seen a doctrine, to us as plain as the sun itself, called in question in a Court from which there is no ordinary appeal. We have heard part of the faith defended, heard, cross-questioned. A Court, we have been told, must "take time to consider," whether a truth held by the whole Church from the first, "always, by all, every where" confessed in the Baptismal services of the Universal Church, in every tongue, by every nation, from Britain to India, is a part of the doctrine of the Church of England. It hangs, as far as ordinary means are concerned, on six laymen, chosen with no reference to, or thought of such an office, whether—no! it hangs upon the will and goodness of God, whether, as far as discipline is concerned, the Church of



England shall be pronounced, in a Court without appeal, to be indifferent to the truth. It would be tempting the goodness of God, it would be recklessness as to the Faith in Christ, for the Church of England to admit the continuance of a Court involving such risk as this.

The doctrine of the Inspiration of Holy Scripture has been already instanced. There are few subjects, not involving directly the Faith in the Holy Trinity, which English Churchmen probably feel so keenly, as the Inspiration of Holy Scripture. For it is the foundation of all besides. What would it be then to them, to hear questions as to the extent of its Inspiration, wherein Inspiration consisted, how much or how little the teachers of the Church might receive or teach, whether a Canonical book was necessarily inspired? (I am speaking of questions upon which the faith of the Church is distinct, and not fully expressed in her Creeds and Articles, only because undoubted.) What would earnest minds think of such questions, argued by ingenious Advocates, before such a Court as this? Would they not shrink into themselves at the thought of it?

Again, it was stated in the pleadings<sup>8</sup>, and truly, that the office of the Holy Ghost, the Comforter, is expressed far less explicitly in the Article of the Nicene Creed, "the Giver of Life," than the doc-

<sup>8</sup> Mr. Badeley's speech.

trine of forgiveness of sin in Baptism is in its article, "One Baptism for the remission of sins." The Church of England has expressly renewed the condemnation of the Pelagian heresy as to original sin; its Articles on grace are Augustinian. But what if any should again make "the grace of God's Holy Spirit" a mere outward gift, as Pelagius did? We are still suffering from a teaching in the last century more or less approaching to this. Instinctive feeling would now say, as it did in the time of Pelagius, "This is a strange doctrine;" "This is not the faith of the Church;" but a positive judicial proof of its heretical tendency, for persons unversed in theological statements would be far more constructive than in the case of Baptismal regeneration, in which the only question is, "May words carefully and repeatedly inculcated be construed not to mean what to all appearance they do mean?"

Or to take again a heresy, now widely spreading, I understand, in the sects in the United States, the universal restoration of the wicked; the same argument by which men explain away the Greek word *αἰώνιος* in Holy Scripture, would explain away the word "everlasting" in the Athanasian Creed. The awful doctrine of "eternal punishment" is contained with equal plainness in both. The Athanasian Creed uses only the very words of our Lord<sup>9</sup>. Men professing deference to Holy Scripture, do escape from

<sup>9</sup> St. John v. 29. St. Matt. xxv. 41. 46.

His words. They can therefore equally escape from the Creed. The soul needs in this, above all other doctrines, blindly to submit to its Lord's awful words. Is this a fit subject to be handled before a Civil Court?

To return to Dr. Sherlock's Tritheism. The form in which it was stated, that "there are three infinite minds or substances in the [Holy] Trinity," or that "the Three Persons in the Trinity are Three distinct Infinite minds or spirits, or three individual substances<sup>1</sup>," was especially and overtly offensive. Yet, carefully as the doctrine of the Holy Trinity was fenced round in the early Church, were this heresy stated less nakedly, or with any of the subtlety of ancient heretics, might it not readily perplex a Lay-Court?

To keep still to the most sacred subjects, as apart from the modern controversies. Heresies are the natural produce of the speculative mind, unrestrained by reverence for authority. They, mostly, to the natural mind seem more natural than the truth. There is no security that any should not be at any moment revived. The XVth Article declares most explicitly that "Christ was clearly void of all sin, both in flesh and spirit." But what if any heretic were to rise and say, that He was capable of sin, although without actual sin; was not by Nature impeccable; or that He had two conflicting wills? or again, if any

<sup>1</sup> Cardwell's Documentary Annals, t. ii. p. 17.

were to revive the Monothelite heresy, and say that He had no human will? or again, if any were to teach that Christ, as Man, was the adopted Son of God? or, with Eutyches, that the Humanity of Christ is absorbed in His Divinity, as a drop of vinegar would be in the wide ocean?—would these be questions on which a decision should be given by any other than the Church herself?

It has been mentioned<sup>2</sup>, as an aggravation of the evil, that “the Court might, in cases where the doctrines of the Church are in question, consist entirely and solely of persons out of communion with the Church, and possibly open and professed heretics,” and so, that a cause relating to the Divine Nature of our Lord, might be tried before Socinians, or one relating to the doctrines of grace before Pelagians. This adds to the manifest unseemliness of the procedure. But it is an aggravation only. The fundamental defect is that the doctrines of the Church should, for any purpose, be authoritatively determined by any other than the Church herself.

Is then this state of things one to which the Church intended to commit herself? or one to which, we, by our acknowledgment of the Royal Supremacy, are bound?

For myself, I am satisfied that the Church never

<sup>2</sup> Protest by Rev. W. J. Bennett. The two members of the Judicial Committee who must be members of the Church of England, need not sit in any given cause, as in fact they are not sitting in the cause now before that Committee.



intended to concede any thing of this sort, nor do I believe that Queen Elizabeth, from whom the present Act of Supremacy dates, meant to claim it. I say, Queen Elizabeth, because what such an one as King Henry VIII., who knew of no law of God or man but his own passions, secretly meant, does not concern us. He meant doubtless to remove any restraint from his own will, and circumvented the Clergy to accomplish it. We have to consider principles to which the Church has expressed her assent, not the acts of a lawless king (whose memory is held in abhorrence in the whole world), even if in the guise of law.

The acts, then, of the Clergy were, 1. The acceptance of the Temporal Monarch under Henry VIII. as Supreme Governor; 2. The recognition of the authority of the Civil Magistrate in Art. XXXVII.; 3. The acceptance of the Queen's interpretation of the Supremacy, in the Injunctions there referred to; 4. The acceptance of the Oath of Supremacy; 5. The declaration as to this Supremacy in the 1st Article contained in the 36th Canon.

And now, before going further, it will enable us, perhaps, better to appreciate what has been done or said, if I set down some heads of what was allowed or not allowed, as to the authority of the Princes, in ancient times. At a distance from libraries, I must content myself with setting down, out of De Marca, Archbishop of Paris, authorities as to the external

jurisdiction or authority of Christian Emperors and Princes.

I think we shall see, 1. That the Church had a very definite line by which she yielded full obedience to temporal sovereigns, without giving up to them the trust committed to her. 2. She allowed and sanctioned at times interference on the part of the secular power, which some (feeling very acutely existing evils) think it a forfeiture of her birth-right to endure.

Henry VIII. appealed to Justinian's Codex. Let us go then first to Christian Emperors.

The epistle of the Emperor Theodosius II. to the Synod of Ephesus lays down (De Marca<sup>1</sup> observes) the duties by which the Emperor is bound; it had the approval of an Œcumenical Synod, which says to Theodosius<sup>2</sup>, "We have copied the letter of Your Piety, approved of God, to give out its brightness before the records of our proceedings<sup>3</sup>." De Marca claims it, as "embracing the chief rules wherein the liberty of the Gallican Church is comprised."

"The well-being of our state depends upon piety towards God; and there is much relationship and harmony betwixt them; for they depend on one another, and each gains increase from the well-being of the other. For as true religion is perfected by

<sup>1</sup> 2. 10. 3.

<sup>2</sup> Relat. Synod. ad Theodos. ver. med. (Coll. Reg. t. v. p. 548.)

<sup>3</sup> Concil. Eph. p. 1. c. 32.

right action, so the state flourishes by aid of both. Since, then, God has appointed us to reign, and willed that we should be as a bond of godliness and prosperity to those who obey our empire, this close union between them, we, standing in the middle, between God's providence and men, aim to keep for ever unsevered. . . . . Above all things, we give earnest heed that the condition of the Church should continue meet for God and suited to our times; and that through the harmony of all, it may be kept free from disturbance, and, through peace in Ecclesiastical affairs, free from divisions; that pure religion may abide without reproach; and that their life, who belong to the Clergy or the Chief Priesthood<sup>4</sup>, may be free from all stain or crime."

We shall find, bye and bye, language of the same sort in Justinian and Charlemagne; let us now see how these principles were carried out.

I. *Christian Emperors claimed to themselves no authority in "controversies of faith."* This, as our Article says (Article XX), is the office of the Church: "*The Church hath authority in controversies of faith.*"

*Theodosius* (letter to the senate of Ephesus):—"We<sup>5</sup> have sent Candidianus to your holy synod, but not to have any share in any questions which arise about doctrine; for it is not lawful for one, not of the

<sup>4</sup> Episcopate, see Bingham, 2. 2. 6.

<sup>5</sup> Ep. Theod. Syn. Eph. p. i. c. 35.

list of the most holy Bishops, to mingle in ecclesiastical questions."

*Valentinian* the Elder: "It<sup>6</sup> is not lawful for me, whose place is among the laity, to busy myself with matters of faith. Let then the Priests and Bishops, to whom this care belongs, meet apart by themselves wherever they will."

*Valentinian's Rescript* and ancient practice:—"Nor<sup>7</sup> ought any one to judge me contumacious, since I assert that thy father, of august memory, not only answered in speech, but sanctioned also by his laws, that<sup>8</sup>, in matter of faith or of any ecclesiastical order, *he* ought to judge, who neither in office is unequal, nor in law unlike. These are the words of the Rescript, that is, he willed that priests should judge of priests." And again<sup>9</sup>, "When didst thou hear, most gracious Emperor, that laymen ever judged of a Bishop in matter of faith? Are we then so bowed down by adulation, as to forget the priestly rights, and what God hath given to me, I should think is to be intrusted to others? Certainly, if we consider either the series of Holy Scripture, or ancient times, who will deny that in a matter of faith Bishops are wont to judge Christian Emperors, not Emperors Bishops? Thou wilt, by God's favour,

<sup>6</sup> Sozom. vi. 7.

<sup>7</sup> Ep. xxi. Imperat. Valentinian. § 2.

<sup>8</sup> In causa fidei vel ecclesiastici alicujus ordinis eum judicare debere, qui nec munere impar sit, nec jure dissimilis; hæc enim verba rescripti sunt.

<sup>9</sup> Ib. § 4, 5.



be advanced to the maturity of age, and then thou wilt appreciate what sort of Bishop he is who gives the right of the Bishop to be trampled upon (*substernit*) by laymen. Thy father, by the favour of God, a man of advanced age, said:—‘It belongeth not to me to judge between Bishops.’ Thy Clemency now saith, ‘I ought to judge.’ And he, being baptized in Christ, thought himself unfit for the weight of such a judgment. Thy Clemency, for whom the sacraments of baptism are in store to be deserved, claims to judge of faith, when he knoweth not the sacraments of the faith itself?”—“If I<sup>1</sup> am to discourse, I have learnt to discourse in the Church, as my elders did. If I<sup>2</sup> am to confer on the faith, the conference must be before Priests, as was done under Constantine, of august memory, who did not premise any laws, but left the judgment free to Priests.

“If Auxentius appeals to a Synod to dispute on the faith—when I hear that a Synod is gathered, I too will not be wanting.”

The Arian Bishop, Auxentius, for whom Valentinian the Younger wished to extort one of the Churches of Milan, proposed to dispute with St. Ambrose before the Emperor, and “selected judges.” The Emperor convened St. Ambrose before him by a tribune, requiring him too to choose judges. “The dispute was to be in the Emperor’s Consistory, the Emperor to arbitrate.”

<sup>1</sup> Ib. § 15.

<sup>2</sup> § 16.

The alternative was exile. St. Ambrose declined thus:—

*Gratian* convoked the Council of Aquileia, specially on the ground that matters of faith should be settled by Bishops.

“After<sup>3</sup> it had been recited, St. Ambrose said, ‘Lo, what a Christian Emperor hath ordained. He would not wrong Priests, he made Bishops themselves the interpreters’” [of the faith].

*Honorius*<sup>4</sup>:—“If any thing was to be determined between Prelates in matter of religion, the judgment ought to have been episcopal: for the interpretation of divine things belongs to them; to us, the obedience of religion.”

*Theodosius* the Younger:—Florentius, present by his mandate at the Council of Constantinople against Eutyches, disclaimed, when the Acts were read, an expression as to doctrine ascribed to him, on the ground, “It was not for me to dogmatize<sup>5</sup>.”

*Basil*<sup>6</sup>, the Emperor:—“I say, it is not permitted to any layman whatsoever, in any manner to move questions as to ecclesiastical subjects, or to stand against the whole Church or an Œcumenical Synod. For to search out these things belongs to Patriarchs and Priests and Teachers, to whom the

<sup>3</sup> *Gesta Conc. Aquil.* § 5. See the Edict below.

<sup>4</sup> *Epist. Honor. Imp. ad Arcad.*

<sup>5</sup> *Conc. Coll. Reg. t. viii. p. 286.*

<sup>6</sup> *Allocut. Basil ad viii. Synod. Act x.*

office of ruling is assigned, to whom the power to consecrate, to loose, and to bind is given, who have the keys of the Church and of Heaven; for the layman, although he is full of all reverence and wisdom, is yet a layman, and a sheep, not a shepherd."

*Justinian* himself<sup>7</sup>:—"If the offence be ecclesiastical, requiring ecclesiastical chastening or censure, let the Bishop, loved of God, judge this, and let not the most illustrious rulers of the provinces share in it. For we do not wish that such subjects should be even known to civil rulers, since these things ought to be investigated ecclesiastically, and the souls of offenders should be gained by ecclesiastical censures, according to the holy and divine canons, which our laws too do not disdain to follow."

*Hosius* to the Emperor Constantius, on his requiring him to condemn St. Athanasius<sup>8</sup>:—"Stay, I beseech you! Remember that you are a mortal man. Fear the day of judgment: keep your hands clean against it; meddle not with Church matters; far from advising us about them, rather seek instruction from us. God has put dominion into your hands; to us He has entrusted the management of the Church; and, as a traitor to you is a rebel to the God Who ordained you, so be afraid on your part, lest, usurping ecclesiastical power, you become guilty of a great sin. It is

<sup>7</sup> Novel. 83.

<sup>8</sup> Ath. Hist. Arian. ad Monach. 44.

written, ‘Render unto Cæsar, Cæsar’s, and what is God’s, to God.’ We may not bear rule upon earth; you, O Emperor! may not burn incense. I write this from a care for your soul. As to your message, I remain in the same mind. I do not join the Arians: I anathematize their heresy. I do not subscribe the condemnation of Athanasius, whom we, and the Church of the Romans, and the whole synod pronounced clear.”

“*Bishop Liberius* said:—Emperor, the ecclesiastical judgments should take place with great strictness of justice. Wherefore, if it please your Piety, order a judicial assembly to be held. And if Athanasius be found worthy of condemnation, then according to the form of ecclesiastical proceeding shall the sentence be passed on him. For we cannot condemn a man whom we have not judged<sup>9</sup>.”

II. *Emperors used a civil authority in gathering General Councils ; were present in them when discussing matters of faith (but without having a voice), confirmed their decrees by a civil sanction<sup>1</sup>. Hence it was not accounted unseemly for the Ecclesiastical and Civil authority to be spoken of conjointly in matters of faith.*

*Socrates*<sup>2</sup>:—“From the time that the Emperors began to be Christian, the affairs of the Church hung

<sup>9</sup> Theod. H. E. ii. 16.

<sup>1</sup> This was altogether different from the “Canonical Assent.” Concil. Eph. Act. xxxi.

<sup>2</sup> L. v. Proœm.



upon them, and the greatest Councils took place and take place at their decision.”

*Justinian*, in a tract approved by the Fifth Council<sup>3</sup>:—“The orthodox and godly Emperors, our forefathers, always took earnest heed to cut off, through the assemblies of most religious Bishops, the heresies which arose from time to time; and, the right faith being sincerely set forth, to keep the Holy Church of God in peace. Our fathers, of holy memory, above mentioned [Constantine, the two Theodosii, and Marcian, confirmed and strengthened by their laws, what was decided in each Council [the four first General Councils], and expelled the heretics who endeavoured to resist the decisions of the above four holy Councils, and to disturb the Church.”

The *fathers in the second General Council* themselves ask Theodosius to confirm it:—“We<sup>4</sup> necessarily refer to your Piety what took place in the holy synod. . . . . We have, moreover, settled canons as to the independence of the Churches. We pray your Clemency, therefore, that you will confirm with the writing of your Piety the decree of the Council, so that as you honoured the Church by the letters which convoked it, you may set your seal to the conclusion which we have decreed.”

The *fathers of the Council of Ephesus* applied to

<sup>3</sup> Concil. v. Collat. i.

<sup>4</sup> Epist. Synod. Conc. Const. ad Theodos.

the younger Theodosius, that “the<sup>5</sup> things set forth by the Œcumenical and holy Council for the confirmation of godliness, against Nestorius and his impious doctrine, may have their own strength, being corroborated by the assent and approbation of your Piety.”

*Marcian*:—“We<sup>6</sup> will to be present in Synod in order to confirm the faith, not to exercise any power, after the example of the religious prince Constantine, that the people might not be rent further by evil.” In his second edict, he speaks of “having confirmed the holy synod by the decree of our Clemency;” and the fathers of the Council themselves accept the term<sup>7</sup> in their synodical Epistle to S. Leo.

*Justinian*, in confirming the decision of the Council of Constantinople which had deprived Anthimus the Patriarch, says, “We<sup>8</sup>, doing nothing unwonted by the Empire, come to this present law; for as often as the sentence of the Bishops has deposed from the holy sees any, unworthy of the Episcopate, as Nestorius, Eutyches, Arius, Macedonius, and Eunomius, and others no less in wickedness, so often did the Empire also concur with the decision of the priests, so that divine and human, meeting together, formed one harmony by their right de-

<sup>5</sup> Concil. Eph. Act v.

<sup>6</sup> Conc. Chalc. Act. 6.

<sup>7</sup> Ep. Syn. Conc. [of the Emperor] “having confirmed as a law the judgment of your Piety.”

<sup>8</sup> Novel. 42. Authent. Collat. iv. 21.

cisions." And again :—" We ratify this, and establish it by our royal laws, as if it had gone forth from the Empire itself."

Nor was it thought any thing unfitting, in this respect, to join the mention of Church and State.

*Justinian* directs the Patriarch *Menas* to send to the Metropolitans of his diocese "what had been decreed by the Chief Priests and confirmed by the Empire."

The Emperor *Marcian* speaks of the heretics<sup>9</sup>, "whom the laws of the Church and the sacred constitutions of the former Kings condemn."

St. *Leo* says to *Pulcheria*<sup>1</sup>, "There is no other safety for human affairs, than that both the royal and sacerdotal authority should maintain what appertaineth to the confession of God;" and to the Emperor *Leo*, "Thou oughtest to observe unhesitatingly, that the royal power has been bestowed upon thee, not only for the government of the world, but chiefly for the protection of the Church; that, by repressing ungodly boldness, thou mayest both defend what have been enacted rightly, and restore true peace to what have been disturbed<sup>2</sup>."

*Leo II.* writes to *Constantine Pogonatus*, who had confirmed "by his sacred edicts<sup>3</sup>" the sixth council against the Monothelites:—"By the decree of the Synod and the censure of the imperial edict, as

<sup>9</sup> Edict III. *Marcian*.

<sup>1</sup> Ep. 33. al. 31, al. 60.

<sup>2</sup> Ep. 81. al. 156, al. 125.

<sup>3</sup> Epist. Const. Pogon. ad Leon.

by the two-edged sword of the Spirit, this new error is stricken through, together with the ancient heresies.”

But Emperors felt their office to be, to confirm the decisions of the Church, not themselves to decide. As Facundus speaks of the Emperor Marcian, “That<sup>4</sup> most humble prince, knowing that King Uzziah was not unpunished for presuming to sacrifice, which is allowed to every priest even of the second order, much more knew that he could not, with impunity, either discuss those things which had been already settled as to the Christian faith, which is in nowise lawful, or make new canons, which is not lawful save for many priests of the first order gathered together. Wherefore this man, temperate and content with his office, willed to be the executor of the ecclesiastical canons, not their framer, not their forcer.”

III. *Appeals of Clergy from the Bishop, lay to other Bishops, or the Primate, or a general Council. The Civil Magistrate might nominate Episcopal judges. To appeal otherwise to a Civil Court was prohibited on pain of degradation.*

*Council of Antioch.*—A.D. 341.

CAN. 12.—“If any presbyter or deacon, deposed by his own Bishop, or a Bishop by a Synod, presume to trouble the ears of the King, whereas he ought to turn to a larger Synod of Bishops and bring before more Bishops any rights he thinks himself to have,

<sup>4</sup> L. xii. c. 3. Galland. t. ii. p. 801.



and await their enquiry and judgment,—if, despising these, he trouble the King, he too shall not be held worthy of forgiveness, nor have any room for defence, nor look for any hope of restoration.”

“This Canon,” Bingham says (17, 5, 16), “was inserted into the code of the universal Church, and acknowledged by the Council of Chalcedon, and all the collectors of the canons, Ferrandus Diaconus, Martin Bracarensis, and the capitulars of Charles the Great.

*3rd Council of Carthage.—A.D. 397.*

CAN. 8.—“If presbyters or deacons be accused, let the Bishops discuss their causes, joining with themselves the legitimate number of their colleagues; that is; for a presbyter, five, for a deacon, two.”

9.—“Whosoever of the Bishops, presbyters, deacons, or clergy, if any crime be alleged against him in the Church, or any civil cause be raised, shall, leaving the judgment of the Church, choose to be cleared by the public judgments, even if sentence be given for him, let him lose his place. For when the authority of the Church on all sides is open before him to choose judges, he judges himself unworthy of brotherly communion, who, thinking ill of the whole Church, seeks aid of a secular judgment; whereas the Apostle commands that the causes of private Christians should be brought before the Church and there determined.”

*Council of Milevis.—A.D. 416.*

CAN. 22.—“If presbyters, deacons, or any other of the inferior clergy, in causes they may have, com-

plain of the decision of their Bishops, let the neighbouring Bishops, with the consent of their own Bishop, hear them; and let the Bishops, called in by them, decide between them. But if they think fit to appeal from them also, let them not appeal to judgments beyond seas, but to the Primates of their Provinces, or to Councils of Africa. And whoever thinks fit to appeal to councils beyond sea, let none in Africa receive him to communion."

*Council of Vannes.*—A.D. 465.

CAN. 9.—"Clerks, except by permission of their Bishop, shall not be allowed to go into the secular court; but if one begin to suspect the judgment of his Bishop, or if any contention with him should arise about any property, he must seek a hearing from other Bishops, not from secular powers; else he shall be held out of communion."

IV. *The Emperor or his representative was not ordinarily even present at an Ecclesiastical trial.*

*St. Athanasius* :—"How can<sup>5</sup> they have the boldness to call that a Council, at which a single Count presided, which an executioner attended, and where a chief jailor, instead of the Deacons of the Church, introduced us into Court; and where the Count only spoke, and all present held their peace, or rather obeyed his directions?"

"As soon<sup>6</sup> as the Eusebians heard that the trial

<sup>5</sup> Apol. cont. Ar. § 8. p. 25. Oxf. Tr.

<sup>6</sup> Id. Ep. ad Monach. § 11. p. 227. The same is said in the Ep. of the Council of Sardica in Apol. c. Arian. § 36. p. 59.

was to be an Ecclesiastical one, at which no Count would be present, nor soldiers stationed before the doors, and that the proceedings would not be regulated by royal order, (for they have always depended upon these things to support them against the Bishops, and without them they have no boldness even to speak :) since we are unable," they said, "to get the advantage in an Ecclesiastical trial," &c.

"If the<sup>7</sup> Emperor is really concerned for the peace of the Church, if he requires our decrees respecting Athanasius to be reversed, let these proceedings, both against him and against all the others, be reversed also; and then let an Ecclesiastical Council be called at a distance from the Court, at which the Emperor shall not be present, nor any Count be admitted, nor magistrate to threaten us; but where only the fear of God and the Apostolical rule shall prevail."

"Why<sup>8</sup>, while pretending to respect the Canons of the Church, has he ordered the whole course of his conduct in opposition to them? For where is there a Canon that a Bishop should be appointed from Court? Where is there a Canon that permits soldiers to invade churches? What tradition is there allowing Counts and ignorant eunuchs to exercise authority in Ecclesiastical matters, and to make known by their edicts the decisions of those who bear the name of Bishops? He is guilty of all

<sup>7</sup> Liberius, Ib. § 36. p. 249.

<sup>8</sup> Ib. § 51. p. 265.

manner of falsehood for the sake of this unholy heresy?"

"If<sup>9</sup> a judgment had been passed by Bishops, what concern had the Emperor with it? Or if it was only a threat of the Emperor, what need in that case was there of the so-named Bishops? When was such a thing heard of before from the beginning of the world? When did a judgment of the Church receive its validity from the Emperor? or, rather, when was his decree ever recognised by the Church? There have been many councils held heretofore, and many judgments passed by the Church; but the Fathers never sought the consent of the Emperor thereto, nor did the Emperor busy himself with the affairs of the Church. The Apostle Paul had friends among them of Cæsar's household, and in his Epistle to the Philippians he sent salutations from them, but he never took them as his associates in Ecclesiastical judgments."

*Council of Chalcedon<sup>1</sup>.*

The representatives of the Emperor, who were present at the discussions of faith, were not admitted at the trial of Dioscorus. To Dioscorus, who desired their presence, it was stated as the rule: "When judgments as to the canons are examined, neither the governors nor any other lay persons ought to be present, only thy Holiness, who art accused in thine own person."

<sup>9</sup> Ib. § 53. 265, 6.

<sup>1</sup> Act III. Second Summons of Dioscorus, Harduin, t. ii. p. 319.



*Synod viii. (Const. iv.) can. 12.*

“It hath<sup>2</sup> come to our hearing that a synod cannot be held without the presence of magistrates; but the sacred canons no where prescribe that secular magistrates should come to the synods, but only Bishops; whence we find that they have been present only in Œcumenical Synods. For it is not right that secular magistrates should be witnesses of the things that take place among the Priests of God.”

*Nicolas I. to the Emperor Michael<sup>3</sup>.*

“Tell me, I pray you, where you ever read that the Emperors, your predecessors, were present in the meetings of synods, save perchance in those which treat of faith<sup>4</sup>, which is universal, which is common to all, which belongeth not only to Clergy, but to laymen also, and altogether to all Christians. But you were not only present in a synod, met in the matter of a Bishop [Ignatius], but you gathered many thousands of seculars to see his disgrace.”

*V. Yet the Emperor might appoint Ecclesiastical Judges in a Case of Appeal.*

*Council of Milevis II.—A.D. 416.*

CAN. 19.—“Whosoever shall ask of the Emperor for his cause to be heard before the public

<sup>2</sup> In the Acts of the Council, Harduin, t. v. p. 1104; Can. 17. ap. Anastas. ib. p. 907.

<sup>3</sup> Ep. VIII. Harduin, t. v. col. 158.

<sup>4</sup> As witnesses, being interested in the common faith, not as Judges.

tribunals, let him be deprived of his rank; but if he ask of the Emperor to be judged by Bishops, let it not harm him."

*Constantine and the Donatists.*

The Donatists' appeal to Constantine against Cæcilian related to facts, not to doctrine. The Donatists were the accusers. They brought two charges; against Cæcilian, that he had cruelly beaten those who took food to the martyrs in prison; against Felix who ordained him, that he had given up the Holy Scriptures to the heathen. Their own schism and subsequent heresy were *founded on* these charges, and ulterior to them, and did not come into the question at all. They wished to eject Cæcilian; Cæcilian, for peace sake, cleared himself. Constantine had, at that time, only a vague respect for the Gospel, as having something divine about it. He was a protector of Christians, not a Christian<sup>5</sup>. "He<sup>6</sup> was as yet ignorant of these things." The Donatists asked him to assign judges from Gaul, as being impartial. Constantine takes up the question as a matter of public peace.

In his epistle to Melchiades, Bishop of Rome, he set forth that he had heard from the Pro-Consul of

<sup>5</sup> His edict directing the Auguries was nine years after this, A.D. 321; he did not own himself a Christian until after the defeat of Licinius, A.D. 324 (the year before the Council of Nice), nor become even a catechumen till his last sickness (Eus. Vit. C. iv. 61), eleven years after he had put to death his son Crispus.

<sup>6</sup> Opt. i. 22.

Africa that Cæcilian, Bishop of Carthage, was censured by certain of his colleagues in Africa, and the peace disturbed. "I, therefore<sup>7</sup>, have thought good that Cæcilianus, with the Bishops who seem to call him to account, and ten others whom he may think necessary to his cause, should, without delay, sail to Rome, that there in your presence, with Rhæticus also [Bishop of Autun]<sup>8</sup> and Maternus [of Cologne] and Marinus [of Arles], whom I have *commanded* to hasten on this account to Rome, he may be heard, that *ye* may learn to live in harmony with the most holy law." He professes at the end, "It will not escape your care, that I have such reverence to the lawful Catholic Church, that I would that ye leave not any schism or division whatever in any place."

The Donatists appealed from the synod of Rome on two grounds, the fewness<sup>9</sup> of the judges, and that the whole cause [*i. e.* that as to Felix] had not been examined. The charge against Felix, being also a matter of fact, not of doctrine, was inquired into on the spot before the Proconsul<sup>1</sup>. And to meet the alleged want of numbers, Constantine convened a General Council at Arles, A.D. 314. In his extant letter to Chrestus, Bishop of Syracuse, he mentions as

<sup>7</sup> Euseb. H. E. x. 5.

<sup>8</sup> "And fifteen others of Italy," Opt. i. 23.

<sup>9</sup> Const. Ep. ad Chrestum. ap. Eus. l. c.

<sup>1</sup> St. Aug. Ep. 43. [al. 162.] c. 2, and the *Gesta Proconsularia*, App. to tom. ix.

his ground, "the restoration, if but tardily, of brotherly kindness."

Constantine in this had no notion of any doctrine or discipline. He wished for harmony, and so first referred the matter to certain Bishops, *some of whom he himself appoints*, and then, as appears from his epistle to Chrestus, summons by name, the Bishop of the chief city of each province, to be present at a given city and a given day. He uses throughout, the word "commanded."

The Bishops thus assembled, by God's Providence, in their first general Western Council, were, of course, free to act as they willed, provided they judged the one cause about which Constantine was anxious. Many points of discipline were then settled, of which Constantine understood as little as about the Donatists.

Cæcilian was again acquitted.

The Donatists again appealed to Constantine himself in person. Constantine himself expressly says, that they acted wrongly and wickedly in so doing; but, since some only had been satisfied by the Council of Arles, he seems to have hoped that peace would be the rather restored, if he added the weight of his own *personal* influence. This he explained to the Bishops in accounting for his judging at all in this matter. It was a personal explanation before him, and relating to *facts*.

The<sup>2</sup> judgment of Constantine was recited [in the

<sup>2</sup> Breviculus Collat. iii. § 19.



Conference] how he had written to Eumelius, Deputy of Africa, that he had heard the cause of Cæcilian between the parties alone. He bore witness that in a strictly private audience, he had found Cæcilian most *innocent*, the others [Donatists] most *contumacious*. He mentioned also that in Arles there had been an Episcopal judgment in favour of Cæcilian, to which judgment many of the dissenting party had already given their consent, the rest still starting back and disagreeing; whence he himself had been compelled to judge of the whole matter, between the parties in private.

On the wrongness of the procedure in this appeal to himself, Constantine speaks very strongly in his circular Epistle to the Bishops, from which also it is plain that he gave the Donatists this private hearing, to satisfy them as to the judgment of the Council, not himself to be satisfied.

“What<sup>3</sup> phrenzy of theirs is this, that with incredible arrogance they persuade themselves of what should not even be spoken of! They reject, I find, right judgment given, and demand mine in an imperial sentence.—How often have I myself repelled them, in their most shameless applications, with the answer they deserve! If they would have kept this in sight, they never would have made this appeal. They ask for my judgment, who myself wait for the judgment of Christ. For I say the truth, that the judgment of priests ought to

<sup>3</sup> Epist. ad Episc. Cathol.

be accounted as though the Lord Himself sat and judged. For they may not think or judge, save as they are taught by their Master Christ. What mean then these wicked men, servants, as I said, of the devil? They *seek for secular (judgments) forsaking heavenly!* Mad, phrenzied boldness! as is done in causes of the Gentiles, they put in an appeal. Gentiles, sometimes, shrinking from lesser courts, where the justice of the case can easily be discovered, interposing authority, are wont to betake themselves to appeals in greater courts. What do these detractors from the law, who, rejecting the judgment of heaven, deem right to require mine, think of Christ the Saviour? Traitors in this, apart from all stricter investigation, they themselves by themselves have betrayed their guilt."

The appeal from the Council to himself, Constantine thought, itself condemned them. St. Augustine<sup>4</sup> relates the sequel.

"From the Council they chose to appeal again to the Emperor himself. Which deed of theirs how he abominates ye have heard. And would that, at least, by his judgment, they would have laid aside their most senseless animosities! He gave way to them, in judging of that cause, when it had been heard by Bishops (purposing afterwards to excuse himself to their sacred order) in the hope that if they obeyed not his judgment to whom they had themselves appealed, they might have nothing fur-

<sup>4</sup> Ep. xliii. c. 7.

ther to say. He bade, then, both parties come to him to be heard at Rome. Cæcilian, for some reason, was not there: the Emperor then, appealed to by them, bade them follow him to Milan. Then some of them wished to withdraw, indignant, perhaps, that Constantine did not imitate them in condemning Cæcilian, hastily and at once, in his absence. The rest were brought to Milan in the custody of officials. When Cæcilian, too, was come, the Emperor set him before them, and having heard the cause (with what diligence, precaution, and thoughtfulness, his letters indicate), he judged Cæcilian most innocent, the Donatists most iniquitous."

Constantine's well-known words at a later period (the Council of Nice), were inserted into the Theodosian Code, and so acquired a legal character. "Constantine<sup>5</sup> the Emperor, presiding at the holy synod, gathered at Nice, when he saw the complaints of certain brought before him, said, 'Ye can be judged of no one; for ye are reserved to the judgment of God alone.'"

*St. Augustine (on the Donatists' Appeal).*

"The Emperor<sup>6</sup> sent Bishops who, with him,

<sup>5</sup> Cod. Theod. l. 16. tit. de Episc. ad c. ult. Ruffinus reports the words thus (Hist. l. i.): "God has made you priests, and ye have been given to us by God as judges, and it is fit that man judge not gods, but He alone of Whom it is written, 'God standeth in the congregation of gods; He judgeth among the gods.'" (Ps. lxxxii. Comp. John x. 35.)

<sup>6</sup> Ep. xliii. c. 5.

might consider and decide as to that whole cause, what should seem right. This we prove both by the petition of the Donatists, and the words of the Emperor himself."

"Ecclesiastical Judges<sup>7</sup> of so great authority, by whose judgment both the innocence of Cæcilian and their dishonesty were made manifest, they ventured to accuse of judging wrongly, not before other Bishops, but before the Emperor. He gave them another judgment of other Bishops, that of Arles; not that it was now necessary, but yielding to their perverseness, and wishing in any way to check this great shamelessness. For a Christian Emperor did not dare so to receive their tumultuous and deceitful complaints, that he should himself judge of the judgment of the Bishops who sat at Rome; but, as I said, he assigned to them other Bishops."

St. Augustine allowed of an appeal from the Bishop of Rome to a General Council: "But<sup>8</sup> let us suppose that the Bishops who judged at Rome were not good judges. There yet remained a plenary Council of the Universal Church, that, should they be found to have judged amiss, their sentence might be annulled."

Subsequently, in pleading for the Donatists to the Civil Magistrate, St. Augustine urged the odium which would come upon the Church, since it was known that Ecclesiastical causes could not come before the civil judge, except through the Church, *i. e.* the civil judge could punish, not judge.

<sup>7</sup> *Ib.* c. 7.

<sup>8</sup> *Ib.* c. 17.



The lawfulness of appealing to the civil power to enforce the *decision* of the Church against contumacy, was decided in the third Council of Carthage. The Council of Antioch, A.D. 270, had so appealed to the Heathen Aurelian to enforce their sentence against Paul of Samosata.

*Appeal in the Case of St. Athanasiius.*

The appeal to the Emperor from the Synod of Tyre, was an appeal in a cause chiefly criminal, against a judgment which set at nought the forms of law.

The orthodox Bishops present protested to the Count who presided, and appealed to the Emperor<sup>9</sup> against "the conspiracies and plots" formed against them, and St. Athanasius withdrew from the Council, and resorted to the Emperor, desiring to have a fair hearing at Constantinople. The cause was in no way doctrinal. Murder had been alleged against St. Athanasius. The forms<sup>1</sup> of law had been grossly violated. Ex parte evidence only had been admitted, collected by personal enemies; evidence in his favour refused; the accuser and the accused not brought together; personal enemies sitting in judgment. Under these circumstances a

<sup>9</sup> Ap. St. Ath. Apol. c. Arian. § 79, p. 113, Oxf. Trans. Constantine says of St. Athanasius, "He desired your arrival, that in your presence he might complain of the violent dealing used towards him." Socr. i. 34.

<sup>1</sup> Ep. Julii in St. Athan. Apol. c. Arian. § 20, seqq. In St. Athan. Histor. Tracts, p. 29, seqq. Oxf. Trans. and other documents, ib. § 71, seqq. p. 100, seqq.

protest was made to the Court, "that the case be reserved for the most religious and godly Emperor, before whom we shall be able to set forth our own and the Church's just claims; and we are convinced that when his Piety shall have heard our cause, he will not condemn us." Constantine summoned the judges "to come without delay to the Prætorium of our Piety, to prove before us by the very facts, the purity and incorruptness of your sentence."

The original offence then was mainly civil. The appeal was against flagrant wrong in the mode of conducting judgment. In the actual trial before Constantine, St. Athanasius' enemies brought a new *civil* charge<sup>2</sup> against him, a threat that he would intercept the exportation of corn to Constantinople; which they supported by suborned witnesses.

A new trial before Ecclesiastical judges, the Council of Sardica, was given him by order of the Emperors Constantius and Constans<sup>3</sup>. St. Hilary<sup>4</sup> says expressly that the ground alleged for the new trial was, that "the persons (St. Athanasius and Marcellus) had been deposed by an iniquitous judgment." The synod petitioned the Emperors that "they would give<sup>5</sup> orders for the release of those who are still suffering from affliction and oppression, and would command that none of the magistrates whose

<sup>2</sup> Theod. I. 30, 31.

<sup>3</sup> St. Athan. Apol. c. Arian. § 1, p. 14. § 35. p. 59. Oxf. Tr. Encycl. Ep. of Council of Sard. ib. § 43. p. 69. Oxf. Tr.

<sup>4</sup> Fragm. ii.

<sup>5</sup> Apol. c. Arian. § 43. p. 68. Oxf. Tr.

duty it is to attend only to civil causes, give judgment upon Clergy, nor henceforward in any way, on pretence of providing for the Churches, attempt any thing against the brethren." Into this synod the civil officers were not admitted, and St. Athanasius' enemies consequently left it abruptly.

*Photinus* appealed to Constantius from the Council of Sardica, as unjustly condemned. The Emperor sent him with eight Counts to the Council of Sir-mium, where he was anew condemned. The Acts of the trial were transmitted to the Emperor through the Counts, who were present at the trial, who also had a copy for themselves, another copy remaining in the hands of the Council<sup>6</sup>.

Constantius recommended to the Council of Se-leucia before all things to judge the causes of the Bishops. *St. Cyril of Jerusalem* was then restored to his see, having been deposed by his Metropolitan, the Arian Acacius, at a synod in Palestine. He had appealed to a larger council. Socrates says<sup>7</sup>, "he first and alone, against the custom according to the ecclesiastical rule, made an appeal (ἐκκλήτοις χορησάμενος) as if in a civil tribunal."

Theophilus<sup>8</sup>, Archbishop of Alexandria, supported by the Emperor, convened *St. Chrysostom* before

<sup>6</sup> S. Epiphanius Hær. 71. (Photiniani) Socrat. ii. 30. Soz. iv. 6.

<sup>7</sup> ii. 39, 40.

<sup>8</sup> Pallad. de Vit. S. Chrys. Socrat. vi. 15, seqq. Sozom. viii. 17, seqq.

him, on some false and frivolous charges, at the Synod "ad Quercum." St. Chrysostom appealed against Theophilus, as his avowed enemy, having no jurisdiction over him, himself lying under a charge which St. Chrysostom had declined to hear on the very same ground of the absence of jurisdiction. He also excepted against other judges as his personal enemies. He was deposed as contumacious, and appealed to a General Council; was banished by the Emperor Arcadius, and after two days recalled. "Presently," he says,<sup>9</sup> "we asked the most pious King to hold a Council by which these doings might be punished." A Synod of sixty Bishops was assembled, who reversed the acts of the former. After a time, another Synod of his enemies brought against him the Arian<sup>1</sup> Canon; "If any Bishop, deposed justly or unjustly, return of himself, without a Synod, to the Church, let him not be admitted to answer, but let him be removed altogether." They prevailed on Arcadius to confirm the former sentence. St. Chrysostom wrote to Innocent, Bishop of Rome, Venerius, Bishop of Milan, and Chromatius of Aquileia, engaging<sup>2</sup> to appear, face to face, with his enemies before a General Council. Innocent applied

<sup>9</sup> Ep. ad Innocent.

<sup>1</sup> Pallad. c. 8. Not the Canon of Antioch. See Schelstrate de Concil. Antioch. p. 541, quoted by Bingham, 17. 5. 16.

<sup>2</sup> "And if those who have committed such crimes will even now make the charges upon which they expelled us, unjustly, giving us the documents and exhibiting the books of our accusers,



to the Emperor Honorius, Honorius to Arcadius three times in vain. In the second letter he states that "both sides had sent legates to the Bishops of the Eternal City and of Italy." A synod was held at the direction of Honorius, which sent an epistle to Arcadius requesting him to direct the Eastern Bishops to meet the Western at Thessalonica. Arcadius still refused. The council then could not be held, nor the cause of St. Chrysostom righted by a formal act of the Church. St. Chrysostom died a confessor; and God, the Righteous Judge, avenged.

"*Bassianus*, expelled from the see of Ephesus, petitioned the Emperor Marcian, that the Council of Chalcedon might take cognizance of it. 'Your<sup>3</sup> Serene Highness is, after God, the whole safety of those who suffer violence, and especially of the priests of Christ, wherefore I too betake myself to these entreaties, casting myself at your sacred feet, beseeching your Piety, that your heavenly power would decree, by your sacred rescript sent to the holy synod, that cognizance should be had between me, unhappy, and those who have done thus with me, and say that they have something against me . . . . and that their charges against me, and my answers

before an impartial court, let us plead and make our defence, and show ourselves to be innocent of those things which are brought against us, as indeed we are." Ep. ad Innocent. ver. fin. Ed. Ben. t. iii. p. 520.

<sup>3</sup> Act. xi. Conc. Chalc. Hard. t. ii. p. 547-8.

before the High Priests in the holy synod, may be reported to your sacred ears, and that some one may be given us charged with putting in execution their decisions."

Marcian sent the rescript to the Council.

"Let your reverence, having received these our sacred letters, consent to inquire into the matter, and to give that decision which seemeth you good."

*Eusebius*, Bishop of Dorylæum, first prayed Marcian to require Dioscorus to answer to his accusation before the Council of Chalcedon, and to direct the Council to hear the cause, and report to the Emperor<sup>4</sup>. "We pray and supplicate your Mightiness to decree that the most reverend Bishop Dioscorus should answer the things objected to him by us," and that "your sacred and worshipful mandate being sent to the holy and Œcumenical Council, it may hear between us and the said Dioscorus, and bring to the knowledge of your holiness all which is done."

This appeal Eusebius made to him, as placed by God over all, to do justice to all.

"It is the purpose of your Majesty to take forethought for all your subjects, and to stretch out your hand to all unjustly oppressed, and especially to those in the office of priesthood; in this, seeking the favour of God by Whom your kingly reign and power over all under the sun is given to you. Since then, many dreadful things, contrary to all order, have

<sup>4</sup> Act. i. Concil. Chalc. Hard. t. ii. p. 69-70.

been done against the faith which is in Christ, and to our own wrong, by the most reverend Bishop of the great city of Alexandria, Dioscorus, we approach your Piety, claiming to obtain justice."

In like way, *Eunomius*, Bishop of Nicomedia, besought his help against Anastasius of Nice, "because<sup>5</sup> God had justly given him empire and rule of all things for the well-being of the whole world and the peace of the Holy Church." And after stating grievances on the part of Anastasius of Nicæa, "for this cause we put in libels against him before the holy and Œcumenical Synod. But since the hearing is delayed, and we are afraid that the synod may be broken up and leave our wrongs unredressed, we entreat that by the consent of your Majesty we may have the hearing no longer postponed."

*Eutyches*<sup>6</sup> was condemned, after a full hearing in the Council of Constantinople, by Flavian, at the close of A.D. 448, with which St. Leo, to whom the Acts were sent, concurred in his celebrated Epistle to Flavian, June, A.D. 449. Meanwhile Theodosius, upon the complaint of Eutyches, that the Acts had been taken down wrongly, directed them to be re-examined. When they were found accurate, he still directed the cause to be again heard at a general Council, which, through the conduct of Dioscorus,

<sup>5</sup> Act. xiii. Conc. Chalc. ap. De Marc. 4. 2. 3. Hard. t. ii. p. 563-6.

<sup>6</sup> De Marca, iv. 4. 7. Petav. de Incarn. i. 13. Conc. Chalc. p. 62. (Labbe, p. 115.)

Patriarch of Alexandria, became the Latrocinium of Ephesus.

And this he did, taking upon himself, so far, to judge upon a matter of faith. He was taught to think that Flavian was wrong in raising any question about Eutyches' doctrine, that he was determining new points, causing confusion and the like. And so thinking, he took upon himself to convene a Council. He says in his letter to it:—

“Since Flavian, Bishop most beloved of God, hath willed to raise some questions about the holy faith against the most reverend Archimandrite Eutyches, and, calling a Court, hath essayed to take certain measures, we, having frequently sent to the same Bishop, most beloved of God, wished to still the confusion raised, being persuaded that the orthodox faith, delivered to us by the holy fathers at Nicæa, sufficeth, which also the holy synod at Ephesus confirmed. But since, when we had often importuned the same Bishop, most beloved of God, to leave off such questioning, that it might not be a cause of trouble to the whole world, he would not, we, considering that it is not safe for such a question as to the holy faith to be moved, apart from the holy synod and those who every where have the first places in the holy Churches, have thought it necessary that your Holiness should meet together.”

When they were assembled, after the usual directions to Elpidius, “Count of the Sacred Consis-



tory," to keep order, the Emperor adds the direction, that—

"Those who before judged Eutyches the most reverend Archimandrite, should be present and quiet, but not have the rank of judges, but await the common sentence of all the other holy fathers; since what they themselves have judged is now being inquired into."

To this Theodosius was probably persuaded by the chief Eunuch Chrysaphius, the friend of Eutyches, and the enemy of Flavian, at whose instigation also he had required a Confession of Faith from Flavian<sup>7</sup>. In this way, he secured that the accomplice of Eutyches, the heretical Patriarch of Alexandria, should be President of the Council, instead of Flavian. The Eastern Bishops were dissatisfied. "Flavian enters as one condemned. This is plain tampering with justice." The Count, interpreting the Emperor's meaning, seems to have gone further still, and to have treated Flavian as a criminal. Elpidius said, on Flavian's asking for the admission of Eusebius of Dorylæum, "The<sup>8</sup> most sacred King, himself first fulfilling the order of the laws, whereof he is the deviser<sup>9</sup> and guardian, commanded those who had already judged, to be in the order of those who are being judged." Flavian was condemned

<sup>7</sup> Conc. Chal. P. i. p. 4.

<sup>8</sup> Conc. Chalc. Act. i. p. 78. (Labbe, p. 146.)

<sup>9</sup> εὐερέτης. This looks like a civil law. The whole, however, seems to have been an arbitrary act.

on a misinterpretation<sup>1</sup> of the Council of Ephesus, as though he had himself innovated as to the faith, and so condemned Eutyches unjustly; but for this the Emperor was no further responsible, than as he summoned Dioscorus to preside, and appointed Civil Officers to maintain peace, who promoted bloodshed.

Eutyches, acquitted in the Latrocinium, escaped with impunity, during the remaining years of Theodosius; he was condemned by a synod at Constantinople, assembled by permission of Marcian, and being condemned, was banished<sup>2</sup>.

VI. "*Princes might suspend the judgment of a Council as to Bishops by convoking a new one*"<sup>3</sup>."

*Nestorius* was condemned at the Councils at Alexandria and Rome, and anathematized, unless he should repent in ten days. He complained to Theodosius, "asked for another Council, and an Episcopal examination." Theodosius, therefore, summoned the Council of Ephesus. He states the object of the Council to be that "the<sup>4</sup> confusion arising from the questions disputed, might be allayed

<sup>1</sup> The Decree of the Council of Ephesus, is not simply, that no one should *add* to the Creed, but "that it shall not be lawful for any one to set forth, write, or compose any other faith *at variance with* (παρὰ) that defined by the holy fathers assembled at Nice, with the Holy Ghost." Act. 6.

<sup>2</sup> See Petav. de Incarn. i. 13. 9.

<sup>3</sup> De Marca, 4. 4. 4.

<sup>4</sup> Let. to S. Cyr. and the Metropolitans, Concil. Eph. p. 226. (Labbe, p. 437.) Hard. t. i. p. 1344.

according to the ecclesiastical canons." But that meanwhile, "before the meeting of the holy Council, and the form which should be prescribed by it through the general decision, as to all questions, nothing new should be compassed privately by any." Nestorius, accordingly, was treated for the time, as wholly innocent. In the first session of the Council he is frequently called "the Bishop most beloved of God," and three times they invited him to come to the holy synod and sit in council with them, "that in the presence of his Holiness the questions as to the faith might be investigated."

After *Eutyches* had been acquitted, and Flavian condemned by the Latrocinium, St. Leo, "with<sup>5</sup> his fellow-Bishops," besought Theodosius, in the name of the Holy Trinity, as the Guardian and Author of his empire, "to command that all things should be in the condition wherein they were before any judgment, until a larger number of Bishops should be gathered together out of the whole world." Theodosius refused, and soon after died, repentant. Marcian, his successor, at once assembled the Council of Chalcedon.

Both the Council and St. Leo besought him to annul the Conciliabulum. St. Leo says, "What<sup>6</sup> followed in the same city cannot be called a council, known, as it is, to have been got up for the overthrow of the faith. Your Clemency, out of love

<sup>5</sup> St. Leo Ep. ad Theodos. xliii. al. xxxiv. Hard. iii. p. 26.

<sup>6</sup> Id. ad Marcian.

for the truth, will stand by the Catholics, and annul [*cassabit*<sup>7</sup>] it, by appointing another." The Fathers of the Council, at the suggestion of Paschasinus, his legate, say<sup>8</sup>, "We must needs again apply to the same most Serene and Christian Prince that he will command by his own sacred law (ἱερῷ ἰδίῳ νόμῳ) that that synod be not ever named."

Marcian rescinded the constitution against Flavian (who had died through his wounds at the Conciabulum), "For<sup>9</sup> Bishops cannot be condemned by a civil constitution (ἐκ διατάξεως) whom a decree of a synod has honoured for guardianship of the faith."

The law of the Church, many ways, appears from the miserable proceedings against the *Priscillianists*. Ithacius first, "with ill-advised counsel and foully," says Sulpicius<sup>1</sup>, "went to the secular judges, [the Emperor Gratian,] to obtain" a severe civil punishment, in addition to the condemnation of the Council of Saragossa. What was gained wrongly, was capriciously reversed through bribery.

Again, Ithacius applied lawfully to the Emperor

<sup>7</sup> There is a various reading 'cassavit,' 'has annulled.' The epistle was written 6 Kal. Jul. Marcian's Edict, revoking that of Theodosius, bears date, prid. Non. Jul., but that was on the request of the Council in its tenth session.

<sup>8</sup> Act. x. Concil. Chalc. Hard. t. ii. p. 537-8.

<sup>9</sup> Rescriptum Marciani, Concil. Chalc. p. 3, n. xi. (ap. Harduin), No. ix. t. ii. p. 675-6.

<sup>1</sup> Hist. ii. c. 62 . . . 64.



Maximus to summon Priscillian before the Council of Bourdeaux. He unlawfully and "inconsistently acquiesced" in Priscillian's appeal to the Emperor himself, "that he might not be heard by the Bishops."

St. Martin, then at Treves, rebuked and urged Ithacius to desist, and besought Maximus to "abstain from the blood of the unhappy man; that it was more than enough that the heretics, judged by an episcopal sentence, were expelled from their churches; *it was a new and unheard of impiety*, that a secular judge should adjudge a cause of the Church. He extorted a promise from Maximus to abstain from bloodshed." After his departure, the Emperor, perverted by two Bishops, tried the accused capitally. Ithacius withdrew from the trial. Prosecutor, charges, judges, condemnation, sentence, became secular. But Ithacius, the secret agent, was deposed, excommunicated, banished. St. Ambrose<sup>2</sup> refused to communicate with his party. The Council of Turin<sup>3</sup> quotes "letters of Bishop Ambrose of venerable memory and the Bishop of the Roman Church, given long since," recommending to receive into Communion, those who separated from the party of Felix. Felix, although he was no party to the measure, communicated with those who did it.

<sup>1</sup> Ep. 24. Valentiniano, Imp. fin.

<sup>2</sup> Conc. Taur. (an. 397) can. 6. St. Ambrose, Ep. 25, 26, al. 51, 52, gives a decided judgment against putting heretics to death.

To add one case, not so directly involving doctrine:—

In the Council of Chalcedon, after the restoration of part of the diocese of Tyre, a question followed as to some Bishops arbitrarily deposed by the Bishop of Berytus. The civil judge put the question to the synod. The synod answered, "Since they have received imposition of hands from the Metropolitan, they must be accounted Bishops." The judges answered, "To decide and decree these things finally, belongs to the holy synod." Several Bishops gave their opinion in order. The synod said, "The Fathers have decided justly, let the decision of the Archbishops hold." The judges confirmed this:—

"What hath pleased the holy synod be kept firm for ever<sup>4</sup>."

VII. *The Emperor could even remove the trial into another province*<sup>5</sup>.

Theodosius removed the trial of Ibas, Metropolitan of Edessa, and John and Daniel, Bishops, from Osrhoene to Phœnicia, to be judged by Photius, Bishop of Tyre, Eustathius of Berytus, and Uranius, Bishop of the Himerii. The Commission of the Emperor was prefixed to the Acts:—

"Let<sup>6</sup> your Magnificence vouchsafe to shew the sacred rescript, that we may in all things follow the intention of our most pious and Christian Emperor. For it ought to shine forth before this matter."

<sup>4</sup> Conc. Chal. Act. iv. De Marca, ii. 8.

<sup>5</sup> Marca, iv. 3. § 3, 4.

<sup>6</sup> Conc. Chal. Act. x.

“St. Cyril, Bishop of Alexandria, and Memnon, Bishop of Ephesus, complain in the Council of Ephesus, that they had been wrongly condemned by John of Antioch, ‘although’<sup>7</sup> neither by the Ecclesiastical laws, *nor by the royal decree*, had he any power to judge as to any of us, or altogether to undertake any thing of this sort, especially against a greater see.’”

In later times, the Emperors at Constantinople transferred causes by appeal to the Civil Courts. “The Patriarch Lucas who complained of this, was answered, ‘The royal’<sup>8</sup> power can do all things. As it could in the first place assign a judge to judge a Bishop or any other clerk, so also it can, with observance of the laws, transfer the Ecclesiastical judgment to the Civil Court.’” But Balsamo rightly observes that this, in an Ecclesiastical question especially, is contrary to the Canons, and that an Ecclesiastic, procuring it, should be deposed, according to Conc. Carth. Can. 104, although he thinks that a civil judge might be asked for from the Emperor, as an assessor (*συνδικαστής*).

Novel. 123, c. 21, provides, “If any Bishop judges between any persons whatever by royal command, or judicial injunction, let the appeal be to the Empire, or to him who sent the matter.”

But this related to a civil cause brought before the Bishop (Cod. 1. tit. iv. 7.) in which an appeal lay

<sup>7</sup> Libell. Cyrill. and Memnonis Oblat. Syn. Eph. p. 2, act. iv.

<sup>8</sup> Balsamon in Comm. ad Can. xv. Synod. Carth.

to the Imperial Court. Ecclesiastical cases are spoken of separately, and ordered to be treated according to the canons at the end of this law.

De Marca<sup>9</sup> sums up:—

“No instance, I believe, can be produced of any canonical judgment given by one Bishop, whereof complaint was directly made to the Emperor. I speak of canonical judgment wherein the question was of faith, ceremonies, discipline of the Clergy, or any canonical question; not of other suits raised against Clergy. Only from the judgments of Synods, from which there was no appeal, the condemned sometimes complained to the Emperors. They gave *Ecclesiastical judges*, but never undertook the cognizance of any canonical question, but only of the order of the judgments.”

VIII. *The principle, indeed, that Ecclesiastical offences could only be tried by Ecclesiastical Courts, was formally admitted into the Theodosian Code, and so became part of the Civil as well as of the Ecclesiastical law.*

Valentinian and Gratian enacted<sup>1</sup>:—

“The custom as to Civil causes shall be observed in Ecclesiastical also; so that whatever shall relate to the observance of religion, as to dissensions or light offences, shall be heard in their own places, and by the synods of their diocese, except such criminal actions as are appointed to be heard by

<sup>9</sup> 4. 4. 8.

<sup>1</sup> Cod. Th. lib. xvi. tit. ii. de Episc. leg. xxiii.



the ordinary or extraordinary judges, or by the illustrious powers.”

Theodosius enacted more distinctly <sup>2</sup> :—

“ We sanction by a perpetual law that no Bishop, nor any one who serves the needs of the Church, be drawn into the courts of any judges, ordinary or extraordinary, so far, that is, *as relates to Ecclesiastical causes* ; which ought to be decided by Episcopal authority.”

Arcadius and Honorius <sup>3</sup> :—

“ So often as it is a matter of religion, it beseemeth that Bishops judge ; but other causes, which appertain to ordinary judges, or belong to the use of the common law, must be heard by the laws.”

Theodosius, jun. and Valentinian III. <sup>4</sup> :—

“ It is known that Bishops and presbyters have no courts for the laws ; nor, according to the sacred constitutions of Arcadius and Honorius, which the body of the Theodosian Code exhibiteth, can they take cognizance of any other causes besides religion.”

The case must be clear when the law, on both sides, ecclesiastical and civil, is so distinct in this agreement. But it may be worth while, *ex abundanti*, to set down the words of the learned civilian, Gothofred, on the law of Valentinian :—

<sup>2</sup> Ibid. lib. xvi. tit. xii. de Episc. Judicio, leg. iii. (questioned by Gothof. on inadequate grounds.)

<sup>3</sup> Ib. lib. xvi. tit. xi. de Relig. leg. i.

<sup>4</sup> Valentin. Novel. xii. ad calcem Cod. Theod.

“As to Ecclesiastical causes (τὰ ἐκκλησιαστικὰ ζητήματα, in Basil) *i. e.* which relate to religion, or in a cause of faith, as Valentinian, the father of our Emperor, said in his law on this very matter, (as Ambrose attesteth, Ep. 32, init.) there is no doubt that they ought to be heard before Bishops’ and Diocesan Synods. (By this law, and l. 1. Inf. de Relig. lib. xvi. tit. xi. l. 1, ‘As often as the question is of religion, Bishops should judge; but other causes, which belong to ordinary judges, or to the practice of public law, ought to be heard according to the laws.’ Imp. Arcad. et Honorii. Aug.) and that Ecclesiastics should not be exposed in the public courts. See also S. Basil, Ep. 385 (now 225); S. Greg. Naz. Ep. ad Nectar. 227 (now 185), Nov. Justin. 83 (Authent. Coll. vi. tit. xii., elsewhere cited), and leg. 29, Cod. Just. de Episc.”

“Also there is no doubt that the causes of any Ecclesiastical order, as also the offences of Ecclesiastics properly against Ecclesiastical discipline and order, are considered there, which in the Can. vi. Concil. Constantinop. and the Novella Justini lxxxiii. c. 1, are called ‘Ecclesiastical charges (ἐγκλήματα) or sins (ἁμαρτήματα), requiring Ecclesiastical chastisements and censures,’ and are ordered ‘to be Ecclesiastically examined, and the souls of offenders won by Ecclesiastical censures, according to the sacred Canons.’”

The later times of the Council of Frankfort allowed an appeal to the king in every difficult case

which the Metropolitan could not settle, but only with the consent of the Metropolitan, as signified by his letters. It does not appear to have related to doctrine.

CAN. 6.—“It is enacted by the lord king and the holy Synod that Bishops should settle suits in their parishes. If any obey not his Bishop, of the Abbots, Presbyters, Deacons, sub-Deacons, Monks, or other clergy, or any other in his parish, let them come to their Metropolitan, and let him judge their cause with his suffragans. Let our Counts come also to the judgment of the Bishops, and if there be any thing which the Metropolitan cannot correct or pacify, then at last let the accusers come with the accused, with the letters of the Metropolitan, that we may know the truth of the matter” [*i. e.* not to the king and the Synod, but to the king alone, to whom the words “our Counts” refer].

IX. *Ordinary Councils, gathered for Judicial purposes, were independent, ordinarily, of the Civil power, although, in points of faith not yet formally ruled, or in the case of Patriarchs, an appeal lay to a General Council.*

These ordinary synods were part of the earliest rule of the Church. They were maintained as our Episcopal visitations are, and belonged to the ordinary course of the Bishop's office, as much as any other Episcopal act. To confirm, ordain, judge, excommunicate, depose, restore, were ordinary functions belonging to Bishops, *as* Bishops individually;

to determine harder causes, in which a single Bishop could not suffice, was an essential and inherent part of their office collectively. It only seems strange to us, because it has been disused. We are familiar with appeals, only not with these. It was as much a matter of course, *then*, for the synod of Bishops to settle any case where charity and the peace of the Church, or justice towards an individual, seemed to require it, as among us, for a higher civil court to review the decision of a lower.

These synods were prescribed by the ante-Nicene canons which were received through the whole Church, were part, at least, of its common law, and in early times were, commonly, in substance attributed to the Apostles. One<sup>5</sup> of these provided :

“Twice in the year let there be a synod of the Bishops, and let them ask one another as to the doctrines of godliness, and put to rest all Ecclesiastical contradictions which may arise.” [Let them meet] once in the 4th week of Easter, the second time on the 12th Hyperberetæus [October].

At the *close of the second century*, Tertullian speaks of Councils habitually held in Greece, in words corresponding to this Canon. “There<sup>6</sup> are held besides, throughout Greece, in fixed places, those Councils, gathered from whole Churches; by which, both things of deeper import<sup>7</sup> are treated of

<sup>5</sup> Can. Apost. 36.

<sup>6</sup> De jejuniis, c. 13.

<sup>7</sup> “Altiora,” the “doctrine of godliness” of the Apostolic Canon.



in common, and the very exhibition of the Christian name is attended with great reverence. How worthy, thus, under the guidance of faith, to be gathered from all sides to Christ ! But those assemblies first give themselves to lengthened devotion and fasting. They know how to weep with those who weep<sup>8</sup>, and so at length to rejoice with those who rejoice.”

In the *third century* we find St. Firmilian in Asia Minor, speaking of these yearly synods as the common and appointed practice. “It is<sup>9</sup> of necessity arranged among us that we, elders and prelates, meet every year to set in order the things entrusted to our charge.” He mentions discipline as one especial object of their annual meetings, for those who had grievously fallen after baptism, and for whom the remedy of the penitential discipline of the Church was needed. The occasion of his speaking of them is, that, time pressing, he is obliged to give a private answer to St. Cyprian, on the Baptism of heretics, instead of one from the synod.

A little before the Council of Nice, the *Council of Laodicea*, A.D. 320, speaks of these synods as a fixed rule, which to neglect brought guilt.

CAN. 40. — “Bishops when summoned to the synod, must not despise, but must go and teach or be taught what is for the amendment of the Church and the rest ; but if such an one despise,

<sup>8</sup> An allusion probably to discipline, which was the other object of those meetings.

<sup>9</sup> Ap. St. Cyprian, Ep. 75. § 4.

he must accuse himself, unless he be absent through indisposition."

The *Nicene Council* formally adopted and enlarged the Apostolic Canon, and the addition "*in each province*," in the Nicene Canon, illustrates the antiquity of the Apostolic. The name "*province*" does not occur in the Apostolic Canons, as probably being older than the time when the Ecclesiastical divisions were conformed to those of the Empire. In like way, where the Nicene Canons speak of the Metropolitan, the Apostolic speak only of the Primate.

CAN. 5.—"Concerning those who are excommunicated, whether in the Clergy or the laity, by the Bishops in each province, let the rule prevail, according to the Canon which says expressly that those rejected by one, be not admitted by others. But let there be an inquiry, lest perchance they have been excommunicated from spite, or contentiousness, or any such ill-disposition of the Bishop. In order then that this may receive due examination, it hath seemed good that for each year, in each province, there should be synods twice in the year; that all the Bishops of the province meeting together in common, such questions may be examined, and thus those who have confessedly offended the Bishop may be, as is reasonable, accounted by all excommunicate, until it please the general body of Bishops to give out a milder sentence concerning them. But let the synods be held, one before Lent, that all

ill-will being taken out of the way, the Gift may be offered to God pure; and the second about the season of autumn."

A few years later, A.D. 341, the *Council of Antioch* (whose decrees were received by the Council of Chalcedon into the Canons of the Universal Church) repeated the injunction of the Council of Nice. But it seems, from its language<sup>1</sup>, to have been framed upon the Apostolic Canon; as that Canon was acted upon, we saw, in Asia Minor, in the time of St. Firmilian. It retains the time of meeting in spring, although differing from the Nicene, and then explains the ante-Nicene month of meeting (in the Apostolic Canons), Hyperberetæus, by October.

CAN. 20.—"For the needs of the Church, and setting to rest things questioned, it has seemed well that there should be synods of the Bishops in each province twice a year; once after the third week of the feast of Easter, so that the synod should be completed in the fourth week of the Pentecostal season, the Metropolitan reminding the Bishops of the province; and the second synod on the Ides of October, which is the tenth of Hyperberetæus; so that to these same synods there should come presbyters and deacons, and all who think themselves injured, and have judgment from the synod, and

<sup>1</sup> It has the words of the Apostolic canon Δεύτερον τοῦ ἔτος σύνοδος γενέσθω τῶν ἐπισκόπων, and adds to them those of the Nicene, Καλῶς ἔχειν ἔδοξε καθ' ἐκάστην ἐπαρχίαν.

that it should not be lawful to hold synods privately, apart from those entrusted with the Metropolitan See.”

In consequence of some neglect, the *Council of Chalcedon* renews the Nicene Canon, and censures those who needlessly fail to attend the synods.

CAN. 19.—“ It hath come to our ears that the synods of Bishops ordered by the Canons do not take place in the provinces, and that thence many things of the Church which need correction are neglected. The holy synod, therefore, hath decreed, according to the Canons of the holy Fathers, that the Bishops in each province should meet together twice in the year, where the Bishop of the Metropolis sees good, and should correct whatever occurs; and that the Bishops who do not meet, being at home in their own cities, and in health, and free from any unavoidable and necessary hindrance, should be, in a brotherly way, rebuked.”

In the *sixth General Council* under Justinian, the words of the Canon of Chalcedon are retained, the synods limited to once in the year.

CAN. 8.—“ We too, wishing in all things that the sacred decrees of our holy fathers should be in force, renew the Canon also, which commandeth that there should be meetings of the Bishops in each province every year, where the Bishop of the metropolis ordaineth. But since on account of the incursions of the Barbarians, and for other causes occurring, the president of the Churches cannot possibly hold the synods



twice in the year, it hath seemed good by all means, that there should, on account of the Church-matters which may naturally spring up, be a synod of the fore-mentioned Bishops in each province, once in the year, from the holy feast of Easter to the end of October in each year, at the place," &c. (as in the Canon of Chalcedon.)

Justinian enforced these canons by the aid of the civil law:—

"That Archbishops and Patriarchs hold councils and synods more than once in a year<sup>2</sup>.

"But that the whole ecclesiastical state and the sacred canons may be diligently kept: we order that every blessed Archbishop and Patriarch and Metropolitan, call together unto him the most holy Bishops appointed in the same province under him, once or twice every year, and accurately examine all causes which Bishops or clerks or monks may have among one another, and dispose of them: and moreover, amend any offence against the canons by any person soever."

And in a later law<sup>3</sup>:—

"But since the provision of the canons as to the assembling of synods of most holy Bishops in each province, hath been ill observed hitherto, it is necessary to resume that first. The holy Apostles therefore and fathers have defined," &c. (quoting the Apostolic canon.)

<sup>2</sup> Novell. cxxiii. c. 10.

<sup>3</sup> Novell. cxxxvii. c. 4.

“We then, finding that from negligence of this kind, many have been involved in divers sins, order that by all means there be one synod every year in each province either in June or September: and that they who have been ordained by the most blessed Patriarchs, and who have not the right of ordaining other Bishops, meet at the Patriarch’s: but they who have been ordained by the most holy Metropolitans of each province, be assembled to them. In which place suits or appeals mooted, whether as to the faith, or canonical questions, or the administration of ecclesiastical affairs; or as to Bishops and priests, or deacons or other clerks, or abbots, or monks; or life and conversation, or the correction of other things; be mooted and discussed and fitly examined, and their correction proceed according to the sacred canons, and according to our laws.”

The next chapter provides still further for hearing Ecclesiastical causes.

“But we will that those things be not only inquired into, in annual synods, but also as often as any priests, clerks, abbots, or monks be accused, whether as to faith or an evil life, or any other fault against the holy Canons. And if the accused be a Bishop, let his Metropolitan examine what has been alleged. If he be a Metropolitan, let the most blessed Archbishop under whom he lives examine him. If he be a presbyter, or deacon, or other clerk, or abbot, or monk, then let the most holy bishop to

whom they are subject examine complaints of this sort brought to him. And when the truth shall have been proved, let each one, according to the quality of his offence, be subjected to canonical penalties, at the discretion of the examiner. But we will that all this have force, not only as to Bishops, clerks, and abbots hereafter to be ordained, but also as to those ordained already, who shall be accused for any causes soever prohibited by the Canons and our laws. For if these things be thus observed, the laity also will thereby very greatly profit, both as to right faith and to integrity of life."

The *second Council of Nice*, A.D. 787, again enforced the decree of the *sixth General Council*.

CAN. 6.—"That there be a local Synod every year.

"Seeing there is a rule: 'Twice in the year there shall be in every province, regular inquiries, in a Council of Bishops;' but on account of the fatigue, and to facilitate the journey of those to be assembled therein, the holy fathers of the sixth Synod decreed that (all excuses set aside) this should by all means be once in the year, and things amiss corrected. We therefore also renew this Canon; and if any prince shall be found to prohibit it, let him be deprived of communion. If any Metropolitan shall neglect this, without necessity, compulsion, or any reasonable cause, let him be subject to canonical penalties. But when the Synod is engaged upon matters touching the Canons or the Gospels, the Bishops assembled

must give themselves to meditation and anxious care, about keeping the divine and life-giving commandments of the Lord; 'for in keeping of them there is great reward;' 'for the commandment is a lamp, and the law is light; and the reproofs of instruction are the way of life;' and the 'commandment of the Lord is pure, giving light unto the eyes.'"

There could be no doubt that the Canons of the Council of Nice, enjoining yearly synods, would, until circumstances should alter, be observed throughout the Church. The reverence in which they were held, appears very remarkably in the conference with the African Bishops, when Zosimus, Bishop of Rome, by some mistake, alleged Canons of Sardica, as though they had been those of Nice, and rested upon them the right of receiving appeals from Africa. The whole Council said, "All<sup>4</sup> things enacted in the Nicene Council we accept." A Bishop, "What is enacted in the Nicene Council may in no way be infringed by any." "These are the copies of the statutes, which our fathers brought with them from the Council of Nice; following the pattern whereof, the following Canons enacted by us, shall be kept." They allow the appeal for the time, on the possibility that all their copies of the Nicene Canons (they speak both of Greek and Latin) should be defective; and deny it only when, by comparison with the authentic copies of Constantinople, Alexandria, An-

<sup>4</sup> Cod. Eccl. Afr. Præf. et Can. 1, Hard. t. i. pp. 866, 867.



tioch, they found the Canons alleged, not to be Nicene.

But, besides this, there is evidence as to the Churches of Antioch, Africa, Illyricum, France, Spain, our own, that these annual synods actually were held. The Antiochene Canon we have seen. In the rest we have evidence of two sorts; 1. Canons directing that such synods should be held. 2. Allusions in other Councils to the synods as actually existing.

#### AFRICAN CHURCH.

The permission of an appeal to a synod, in itself implies the existence of synods. For no Church or State would make a provision, without providing means also whereby it should take effect. But a system may be carried out more or less imperfectly. It will be well to shew then that synods were part of the African system.

Now one can scarcely open St. Cyprian's Epistles without seeing at once that they were a living, essential system. The extraordinary case, of the restoration of the lapsed, could only be rightly determined by a provincial synod<sup>5</sup>. But, equally, where doubt is raised about a question, already decided, and "many years before<sup>6</sup>" by a synod, the Baptism of heretics, it is set at rest, for the time, by successive synods<sup>7</sup>. The consecration of Bishops

<sup>5</sup> It was regulated by two synods, Ep. 55. § 4. 57.

<sup>6</sup> Ep. 73. § 2.

<sup>7</sup> In three synods, Ep. 70. 72, and Conc. Carth.

was an ordinary, and when Bishoprics were so numerous, a very frequent occasion of meeting in Synod.

An African synod under St. Cyprian, speaks of it as "a Divine tradition and apostolic observance<sup>8</sup>," kept by almost all the Provinces of Africa, that "to the due solemnization of ordinations, all the neighbouring Bishops of the same province should meet together among the people for whom a Prelate is ordained, and the Bishop should be chosen in the presence of the people who know most fully the lives of each."

We learn from the same occasion that such was the practice of the Church of Spain. "By the suffrages

<sup>8</sup> Ep. 69. § 5. This was more or less practised throughout the Church. The Nicene Canon IV. laid down, "It is most fitting that a Bishop be made by all in the province;" and then provides that if this be difficult, he should be consecrated by three (the Metropolitan confirming). The Council of Antioch (c. 19.) uses nearly the words of that of Nice:—"A Bishop may not be consecrated *without a synod*, and the presence of the Metropolitan; if he be present, it is best that all the Bishops in the province should meet him, and the Metropolitan ought to summon them by epistle; and if all meet, it is best. If this is difficult, at all events, most ought to be present, or agree by letters, and so the appointment should take place, either with the presence or concurrence of the majority." Absence is reluctantly conceded.

In the Gallican Church, the concurrence of the Provincial Bishops was essential (Council of Riez, A.D. 439, c. 11. Chalons, A.D. 649, c. 10.); but it might be signified by letters (Riez). The fifth Council of Orleans, A.D. 549, provides (Can. x.), "Let the Bishop be consecrated by the Metropolitan, or his deputy, with the Provincial Bishops."

of the whole brotherhood, and by the judgment of the Bishops who had met together in their presence, and who had written to you concerning him, the Episcopate was conferred upon him." This the Council calls "an ordination rightly performed."

The *fourth Council of Carthage* formally adopted this. CAN. 1.—"Let a Bishop be ordained with the consent of the Clergy and laity, and a synod of the Bishops of the whole province, and chiefly with the authority or presence of the Metropolitan."

Besides these occasions, we find Privatus deposed by one synod, desiring to plead before another; and this, held at one of the times mentioned in the Apostolic Canons, the middle of May<sup>1</sup>. The same Epistle mentions a case of appeal in which two persons, first condemned by nine Bishops, had been, for many crimes, "excommunicated by very many *in a council* the year before." These were ordinary councils. Bishop Fidus's question about one prematurely restored to Communion, and the Baptism of Infants before the eighth day, seems to have come to St. Cyprian at the time of the synod. It is answered by the synod<sup>2</sup>. Novatian, when surreptitiously ordained Bishop of Rome, was rejected by an African synod<sup>3</sup>. The application of the Spanish Bishops as to the case of Basilides, who, having been lawfully deposed, had imposed on Pope Stephen, was received and answered by a synod<sup>4</sup>.

<sup>1</sup> Ep. 59. § 12.

<sup>2</sup> Ep. 64.

<sup>3</sup> Ep. 44. 68. § 2.

<sup>4</sup> Ep. 67.

The African Councils, whose canons have been preserved, are of a century later. *The second Council of Carthage*, however, A.D. 390, when providing how a Bishop (if need were) should be heard on the instant, without waiting for a synod, orders that he should "be heard by twelve Bishops, *according to the statutes of the ancient Councils* <sup>5</sup>."

*The third Council of Carthage*, A.D. 394, provides, not for Provincial Councils, which must have existed already, and were appointed by the Council of Nice, but for a General Council of all Africa. But it presupposes the Provincial Councils, from which the legates were to be sent to this.

CAN. 2.—"For ecclesiastical causes, which, to the injury of the people, are often long unsettled, let a Council be held every year, to which all the provinces which have Primates may send three legates *from their Councils*, so that the authority of the Council may be full, and yet it be less burdensome to their hosts. But for Tripolis, on account of the fewness of Bishops, let one Bishop come."

*The fourth Council of Carthage*, A.D. 397, has several Canons presupposing the continual action of the synods.

CAN. 21.—"Let not a Bishop, without grave ne-

<sup>5</sup> Concil. Carth. ii. A.D. 390, c. 10. In the Cod. Eccl. Afr. Can. 12, it is headed "*Si quis Episcopus absque tempore synodi*," &c. "The statutes of the *Ancient Councils*" cannot be simply the one Council of Carthage, i. A.D. 348, only forty-two years before, which also appoints this number of Bishops only for a single case.



cessity, be hindered from going to the synod; if so, let him send a legate, that he may receive assuredly whatever the synod has decreed."

CAN. 25.—"If the fear of God doth not, let the synod reconcile Bishops at strife."

CAN. 28.—"An unjust condemnation of Bishops is null, and so must be re-opened by the synod."

CAN. 29.—"If a Bishop impute a crime to clerk or layman, let him be brought to the synod for proof."

CAN. 30.—"Let the Church's judges beware that they pass not sentence in the absence of him whose cause is tried; for it will be null, and they themselves will have to plead in the synod."

CAN. 59.—"Let the Bishop, by reason or power, bring disagreeing clerks to agreement; if they disobey, let the synod, hearing, condemn them."

CAN. 66.—"Let a clerk who thinks his Bishop's strictness to him unjust, have recourse to the synod."

The *fifth Council of Carthage*, A.D. 401, provided against negligence in attending the Councils. 'Whensoever' a Council is to be gathered, let Bishops, hindered neither by age nor sickness, nor any graver cause, meet accordingly; and let it be intimated to the Primates of their several Provinces, that, of the whole number of Bishops, there be formed two or three bands; and again, that as many as shall be chosen out of each band, should meet without any

<sup>6</sup> Can. 10. Cod. Eccl. Afr. can. 76; also in the Decretals Dist. 18. c. 10.

fail whatever, at the day of the Council. If they could not meet, then must they write their excuses upon the summons, or if, after the arrival of the summons, any pressing necessity should chance suddenly to arise, unless they give account of the hindrance to their own primate, they must remain content with the communion of their own Church<sup>7</sup>."

*In the Council of Carthage* (Aur. xi.), A.D. 407, the decree for annual *General* Councils was rescinded, but the Provincial Councils were provided for: "So often<sup>8</sup> as a 'common cause' (*i. e.* of all Africa) shall require, the Council shall be held in whatever province best suiteth; *but let causes which are not common be judged in their own provinces.*"

The last synodical letter of the *Council of all Africa*, in the cause of the wretched priest Apiarius, whom the Bishops of Rome had wished to restore, while it finally refuses all appeals to Rome, sets forth the African fathers' estimate of an ecclesiastical synod.

"Most<sup>9</sup> prudently and most justly have the Nicene decrees provided, that all matters are to be ended in their own places, where they arose. Nor will the grace of the Holy Spirit be lacking to the prudent care of each, so that what is just may be wisely seen and most firmly held by the Bishops of Christ. And

<sup>7</sup> *i. e.* Communion with the rest of the Province be suspended, as in Conc. Carth. v. 13. Cod. Eccl. Afr. c. 80. Hard. i. 950.

<sup>8</sup> Cod. Eccl. Afr. c. 95.

<sup>9</sup> Cod. Eccl. Afr. c. 138. Ep. ad Celestin.

that the more, since any, if displeased with the decision of his judges, may appeal to the Council of his Province, or to a General Council (*i. e.* of all Africa). Unless any think that God can inspire each of us individually with a just judgment, and would deny it to very many priests, gathered together in Council.”

*Illyricum.*

This great and important Province had, since Siricius<sup>1</sup>, towards the close of the fourth century, been in the Patriarchate of Rome, whose Bishop gave a Vicariate to the Bishop of Thessalonica. It comprehended what was lately Turkey in Europe, south of the Danube, and Crete.

To its Primate Saint Leo<sup>2</sup> writes, enjoining the observance of the Canons, on holding Councils twice in the year.

“As to Episcopal Councils, we prescribe nothing else than the holy fathers healthfully ordained, that there should be two Synods every year, wherein judgment might be had of all complaints, such as are wont to arise between different orders of the Church. And if it should be (which God forbid) that among the Bishops themselves, any cause should arise out of heavier sin, which cannot be settled by an examination in the Province, the Metropolitan will take care to inform you, brother, of the whole

<sup>1</sup> See Baluz. in De Marca, v. 19. sqq.

<sup>2</sup> Ep. 82. c. 7. ad Anastas. Thess. Ep., also in Decretals, D. 28. c. 2.

nature of the matter, and if, the parties being before you, not even your judgment can set it at rest, let it, whatever it be, be transferred to our cognizance."

*Church in Spain.*

We have seen that in St. Cyprian's time, Bishops in Spain were elected at synods, and from this alone, it would be necessary that synods should be frequently held<sup>3</sup>. In the extraordinary synods, we find notices of them as existing, regulations about them, directions for their revival when neglected.

After the Priscillianist troubles, the *first Council of Toledo*, A.D. 398, was held to bring back unity in the Church. In it, it was forbidden<sup>4</sup>, on pain of excommunication, to depart from the Canons of Nice, which involved the observance of the yearly synods.

The *Council of Tarragona*, A.D. 516 (CAN. 6), "as<sup>5</sup> the statutes of the fathers [Laod. 40] have sanctioned," enforces attendance on a synod when summoned, (except for illness,) on pain of excommunication until the next Council of all the Bishops.

CAN. 13.—The Metropolitan is to "summon to the Council, presbyters, not only from cathedral, but from diocesan Churches, and to bring with him some of the secular sons of the Church."

<sup>3</sup> The sixteenth Council of Toledo, A.D. 693, still "with the consent of the Clergy and people" confirms Bishops "according to the fore-election and authority of the king," subject to the confirmation of the Synod (nostro eum in postmodum reservans ibidem decreto firmandum). Decretum judicii ab universis editum.

<sup>4</sup> Hard. i. 990.

<sup>5</sup> Ib. ii. 1042.



CAN. 5.—“A Bishop consecrated, with letters only from the Metropolitan, is to present himself within two months, that, instructed and admonished by him, he may know more fully what he should observe. If he neglect this, he is to be rebuked by the brethren *in the synod*.”

In the *second Council of Braga*, A.D. 572, after a long period of neglect, from the absence of synods, and their remote position “in the extremity of the province,” a selection of the older Canons was made, (the *Capitula Martini*,) to be strictly observed. These included the Canons Nic. 4, Antioch. 19, on the election of Bishops; Antioch. 20, on synods; Laod. 40, against negligence in attending them; Antioch. 12, against appeals to the civil court, instead of the synod. It was a complete revival of the ancient practice<sup>6</sup>.

In the Arian times, there had been a long neglect of synods. One of the first results of the conversion of King Recarede, was their restoration in the *third Council of Toledo*, A.D. 589. They could only be held once in the year, but the Council set forth the ancient practice, as unwilling not to adopt it wholly.

CAN. 18.—“Without<sup>7</sup> detriment to the authority of former Canons, which commanded that a Council be gathered twice in the year, yet, regard being had to the length of way and the poverty of the Churches of Spain, let the Bishops be assembled once a year

<sup>6</sup> Hard. iii. 383, &c.

<sup>7</sup> Ib. 482.

to the place which the Metropolitan shall choose." The Council is not to be dissolved without appointing the time and place for the next.

There is in the same Canon a remarkable direction, which may illustrate the seemingly mixed Courts in our own Saxon times.

"The Judges of the place and the agents of the treasury are, by the King's decrees, to meet, together with the Sacerdotal College, in the middle of November, that they may learn how piously and justly they ought to deal with the people." "By the royal admonition, the Bishops are to see how the judges deal with the people ; they are to forewarn and then correct the judges, or bring their insolences before the king, or, if they cannot amend, excommunicate them."

The *Council of Huesca*, A.D. 598, provides for regular annual Diocesan Synods <sup>8</sup>.

The sixth Canon of the *second Council of Seville*, A.D. 618, exhibits to us the workings of the Synods, both in redressing and preventing the grievances to which Presbyters might be liable from the absolute power of a single Bishop. It rehearses :—

"In <sup>9</sup> the sixth Session we learnt as to Fragitanus, Presbyter of the Church of Cordova, formerly unjustly degraded, and being innocent, banished by his Bishop. Him we have restored again to his order, and decreed, against this novel boldness, 'that,

<sup>8</sup> Hard. iii. 535.

<sup>9</sup> Ib. 559.

according to the judgment of the ancient fathers in Council, no one of us presume, without examination, of a Council, to degrade any Presbyter or deacon.' For there are many who, by a tyrannical power, not by canonical authority, condemn persons untried; and, as they raise some through mere favour, so, moved by dislike and envy, they humble others, and at the light breath of opinion, they condemn those whose fault they prove not. For a Bishop, alone, can confer the dignity on priests and deacons; alone, he cannot take it away. For if in the world, those who have obtained from their masters the dignity of freedom, cannot be brought back into bondage, unless publicly accused before the magistrate, how much less these who, consecrated at the Altar of God, are adorned with Ecclesiastical dignity. It shall not then be permitted that these be condemned by one, nor, at the judgment of one, be deprived of the privileges of their dignity, but they shall be presented for the judgment of the Synod, and that be decided, which the Canon enjoins concerning them.'"

This Council has perhaps been preserved for the sake of a decree, setting forth at length from grounds of Holy Scripture, the two Natures of our Lord, occasioned by the entrance of a heretical Syriac Bishop, one of the Acephali, who was, at last, converted in the Council. (Can. 12, 13.)

To facilitate the holding of these Synods, the *fourth Council of Toledo*, A.D. 633, set forth, CAN.

3.—“Scarcely<sup>1</sup> any thing has so driven out all discipline from the Church of Christ as the negligence of Bishops, who, despising the Canons, neglect to hold Synods to correct the morals of Ecclesiastics. Wherefore we have decreed (Conc. Tol. 3) that since the straitness of the times allows not a Council to be held twice a year according to the decrees of the fathers, it be held at least once. Yet so, that if it be a matter of faith or any other, common to the Church, a general Synod of all Spain and Gaul shall be called. Else, there shall be a special Council in each Province, where the Metropolitan shall choose. But let all who are known to have causes against Bishops, or Judges, or Grandees, or any other, come to the said Council; and whatever shall be found, by examination of the Council, to have been done amiss by any, shall be most righteously corrected for those whose is the right, at the instance of the Royal Executor; and, to compel the attendance of the Judges or secular men, let the Metropolitan request of the King the aid of the same Executor.” The Synod was to be in the middle of May.

Another Canon (28) speaks of appeals, that if a Bishop, priest, or deacon, unjustly deposed, be, in a second Synod, found innocent, he cannot be what he was, without receiving back the grade he had lost, receiving from the hands of the Bishop, before the Altar, the insignia of his order.

<sup>1</sup> Hard. iii. 579.



It may help to set before our eyes these Courts, as something not real only, but holy, which our eyes may long for, to see the account of their session as prescribed in this same Council.

CAN. 4.—“On<sup>2</sup> the first hour of the day, before sunrise, let all be removed from the Church, and all the doors being barred, let all the door-keepers stand at the one door through which the Bishops are to enter. Let the Bishops, meeting, enter together and sit down according to the date of their consecration. When they have all taken their seats, let the presbyters be called, who have due reason for being present, and let no deacon intrude himself among them. Then, approved deacons, whose presence is required. The Bishops sitting in a circle, let the presbyters sit behind them, the deacons stand before them. Then let laymen enter, whom the Council shall choose. Notaries also, who are needed to recite or take down. Then let the doors be barred, and the Bishops sit in lengthened silence, having their whole hearts towards God. Let the Archdeacon say, ‘Let us pray.’ Immediately all shall prostrate themselves on the earth, praying long in silence with tears and groans. Then one of the elder Bishops rising, shall pour forth a prayer to the Lord openly, the rest lying on the ground. The prayer being ended, and all having answered Amen, let the

<sup>2</sup> This Canon is the basis of the more modern mode of holding Spanish Councils, though in some respects modified. See in Loaisa and D’Aguirre.

Archdeacon again say, 'Arise,' and at once let all arise, and with all fear of God and discipline let both Bishops and Presbyters sit. All sitting then in their places in silence, let the deacon, robed in the alb, bring forth into the middle the volume of the Canons, and read aloud the chapters on holding Councils. These being finished, let the Metropolitan address the Council. 'Lo! most holy Bishops, out of the Canons of the ancient fathers have been read to you their decisions as to the holding of Councils. If then any action troubleth you, let him lay it before his brethren.' Then if any bring before the hearing of the Bishops, any complaint about aught done against the Canons, let this be terminated, before proceeding to any other head.

"If any presbyter or deacon, clerk or layman, of those who stand without, think right to appeal to the Council for any matter, let him tell his matter to the Archdeacon of the Metropolitan Church, and let *him* tell it to the Council. Then let leave be given to the other to come in and propose it. Let no Bishop leave the Council before the general hour of departure. Nor let any venture to dissolve it till every thing be determined: so that whatever shall be settled by common deliberation, be subscribed by the hand of each Bishop. For then may we believe that God is present among His Priests, when, free from all tumult, the matters of the Church are ended with thoughtfulness and peace."

Such were Spanish Councils wont to be in the

early part of the seventh century. When it was waning, A.D. 666, it appears from *the Council of Merida*, that these annual Councils also were now summoned at the command of the King ("which<sup>3</sup> thing doth not take place without the royal will"). (CAN. 7.) Now, for the first time, the Canon speaks of neglecting not only "the admonition of the Metropolitan," but "the King's command." The Council, however, enacts that a Bishop, not attending, is to be excommunicated; he is put in a state of penance under the direction of the Metropolitan. The Council directs too that none under the degree of a presbyter should be sent as a legate.

The *eleventh Council of Toledo*, A.D. 675, enforces the meeting of these synods most urgently. It extends the sentence of a year's excommunication to "all the Bishops of the Province of Carthage, if henceforth a year pass, without the holding of a Council, *i. e.* if, no power of the Prince letting, by their own free will, they do not assemble to hold a Council." (Can. 15.) The time of holding the Council is to be "fixed by the choice of the Prince, or the Metropolitan;" and occasions of absence were not to be studied.

Not forty years more, and, for the sins of Spain, all was swept away; and she was betrayed to infidels, in part, by an Archbishop of Toledo and Seville. In 712, the Moors, like locusts, overspread Spain; Spanish

<sup>3</sup> Hard. iii. 1000.

Councils, save in the past, disappear from the history of the Church, except one in Leon after 200 years. Three centuries and a half flowed by, before another Council could be held at Toledo: Corduba was in the hands of Infidels for 500 years. But in this way too, "nullum tempus Ecclesiæ." Centuries may roll over the Church, but the Church dies not. Oppressed, sold, trampled in the dust, "grinding in the prison," "made sport of," she lives and will prevail; through His Life Who liveth in her.

*Gallican Church.*

Before entering on the detail of the French Councils, it may be well to notice one or two points indicative of a greater frequency of Councils than we are accustomed to. We hear mostly of Councils only which have an historical interest, or have left Canons; and we forget those which met for the needs of the day, to redress wrongs, to correct manners, to rebuke those too powerful in their sins to be restrained by a single Bishop, to restore penitents, to consecrate Bishops, and sometimes churches.

But some of the very Councils which made the Canons by which their own memory has been preserved, were met on those very, ordinary, occasions; and thus they are, in fact, so many witnesses of the existence of many other Councils which *must* have met for the like occasions, but which, having left no Canons, are forgotten.

Such were the *Councils of Angers*, A.D. 453, and



*Vannes*, A.D. 565, which, although they passed Canons, were assembled for the consecration of their Bishops: the *second Council of Orange*, A.D. 529, and the *fourth Council of Arles*, A.D. 541, for the consecration of a Basilica. The *Council of Carpentras*, A.D. 527, was gathered as usual, when "the complaint came to them" which occasioned the single Canon for which it is recorded. It appointed that the Council be gathered the next year at *Vaisons*, which is forgotten. Two years after we have a *Council of Vaisons* (the second), which says in the preamble, "*Being gathered according to the Canons of the fathers, and according to custom*, reading over the rules of the ancient fathers, we learnt that none of the priests of the Lord present had, by commission or omission, offended against the spiritual decrees." Then, not to part without "something to the edification of the Church," they ordained some useful practices, taken from other Churches. The *first Council of Valence*, A.D. 374, had "transacted, and, in the Name of God, settled for the better what had been begun in the matter of the dissension;" and then, at the suggestion of some of the brethren, "enacted the Canons which have perpetuated it." The *fifth Council of Arles*, A.D. 524, was assembled for "necessary matters."

Yet of these, the *second Council of Orange* was, in the event, a very important Council. It was assembled for the consecration of a Church. "A spiritual conference took its rise among us," the Council says,

“about matters appertaining to the Ecclesiastical rule. It came to our knowledge that some, through simplicity, had spoken incautiously, and not according to the rule of the Catholic faith, on grace and free-will. Accordingly they subscribe “the Chapters<sup>4</sup> transmitted to them from the Apostolic see, collected by ancient fathers from Holy Scripture, to teach those who think amiss.” The Council is remarkable as being subscribed by laymen also. “Since we wish and desire that what is here defined by the ancient fathers and by us, should be a medicine, not for the religious only, but for laymen also, it is agreed that the illustrious and noble men, who have assembled with us at the aforesaid festival, should subscribe with their own hands.” They subscribe with the word “consenting<sup>5</sup>.”

In like way, in several of the Spanish Councils, the matters upon which they treat, come to the knowledge of the Council while sitting.

And now, to turn to the French Councils which gave directions as to these Synods, or imply their existence.

The *Council of Riez*<sup>6</sup>, A.D. 439, met on account of the irregular consecration of the Bishop of Embrun by two Bishops, without authority of the Metropolitan. At the close it adds (Can. 8), “That, *accord-*

<sup>4</sup> They are almost entirely from St. Augustine. Hard. ii. 1097.

<sup>5</sup> “Consentiens subscripsi.” See in S. Aug. t. x. App. p. 157, seqq.

<sup>6</sup> Hard. i. 1750.

*ing to the ancient custom*, if there be quiet times, twice in the year they should hold Synods, or certainly, amid all anxieties, neglecting their own private needs, giving thanks together to God, they should seek the only remedy for the Church, apart from all desire of revenge, and all animosity.”

The *first Council of Orange*, A.D. 441, provides (Can. 29) “that no Synod should dissolve without appointing the next Synod.” It therefore appoints the Synod for the following year, in the territory of Orange, in October (one of the seasons appointed for the yearly Synod), “if<sup>7</sup> allowed by the permission of our Lord and God Jesus Christ.” That Synod is forgotten.

In the next year, A.D. 442, in the *first Council of Vaisons*, we find “the Synod” spoken of as a matter of course.

CAN. 5.—“If<sup>8</sup> any acquiesce not in the sentence of his Bishop, let him have recourse *to the Synod*.”

The *second Council of Arles*, A.D. 443, rehearses that the Bishop of Arles may summon *a Synod* as he thinks fit, and enacts, Can. 2, “let one hindered by sickness send one in his stead.”

CAN. 3.—“If<sup>9</sup> any neglect to come, or forsake the assembly of his brethren before the Synod is dissolved, let him know that he is separated from the communion of the brethren, and may not be received unless he be absolved by the following Synod.”

<sup>7</sup> Hard. i. 1786.

<sup>8</sup> Ibid. 1788.

<sup>9</sup> Can. 18, 19. ap. Hard. ii. 774.

The *Council of Agde*, A.D. 506, (itself “gathered by the permission of Clovis,”) ordained as its last Canon:—

CAN. 71.—“It<sup>1</sup> hath seemed good that a Synod be gathered every year, *according to the constitutions of the fathers.*”

The *Council of Epaune*, A.D. 517, has a Canon (c. 2) against Bishops excusing themselves from attending the summons of their Metropolitan to such Councils, or the consecration of a Bishop.

It also enforces the Canon of Arles.

CAN. 35.—“If a Metropolitan send letters to the Bishops of his province, inviting them to the consecration of a Bishop, or to a Synod, let them, laying all things aside, except grave bodily sickness, or the King’s command, not delay to be present at the day appointed. But if they fail, let them, as the ancient authority of the Canons enjoins, be, until the next Synod, deprived of the charity of the brethren and the communion of the Church.”

It also shews that the redress of Synods extended to unjust excommunications.

CAN. 3.—“If Bishops, laying aside sacerdotal moderation, presume to excommunicate innocent persons, or for very slight offences; and when these anxiously seek grace, refuse to receive them, let such be admonished by the neighbouring Bishop of each province; and if they refuse to comply, let not

<sup>1</sup> Hard. ii. 1005.



communion be denied by the other Bishops to those [excommunicated], *to the time of the Synod*, lest being long excommunicated through the sin of the excommunicator, they be overtaken by death."

The *second Council of Orleans*, A.D. 533, repeats Can. 1 of the Council of Epaune, of the duty of Bishops to attend their Metropolitans, and (Can. 2) enjoins the Metropolitans<sup>2</sup> every year to call the Bishops of their province to the Council.

The *first Council of Clermont*, A.D. 535, prescribes:—

CAN. 1.—"In<sup>3</sup> the first place, *so often as the holy Synod is gathered according to the statutes of the fathers*, let none of the Bishops dare to suggest any matter, before those things be concluded, which appertain to the amendment of life, the strictness of the rules, and the healing of the soul."

The *third Council of Orleans*, A.D. 538, begins with a very strict rule against Metropolitans who neglect to convene Synods.

"Every<sup>4</sup> Metropolitan in his own province ought, at a suitable time every year, to hold a Synod with the Bishops of his province. But if ailment, or any other certain necessity, hinder him from being present at any other fixed place, let him summon his brethren to his own city. But if, God giving tranquil times, he fail, for two years, to summon the Bishops of his province to a Synod, let him, for this

<sup>2</sup> Hard. ii. 1174.

<sup>3</sup> Ib. 1181.

<sup>4</sup> Ib. 1423.

tardiness in summoning them, not venture, for a whole year, to celebrate the Eucharist. But if those summoned, being detained by no bodily ailment, wilfully neglect to appear, they shall be subject to the same sentence. Nor shall it be any excuse that they think they may attend by turns."

The *fifth Council of Orleans*, A.D. 549, enjoins that these Councils be held, whether there seem beforehand any occasion or no. It sums-up,

CAN. 23.—"These<sup>5</sup> things being thus settled by the favour of God, we decree, in conformity with *what stands prominently in all the Councils of the fathers*, that in the course of each year, every Metropolitan Bishop, uniting in one place the Bishops of his province, endeavour to hold a Council within his province, that if any thing be brought before them, it may be amended by the zeal of charity; or if, by the help of God, peace and discipline abide in all things, they may, under the guidance of God, Author of all good, joy in the presence and love of one another."

The *second Council of Tours*, A.D. 567, is remarkable as alluding to a new source of difficulty, that from princes. After enacting, as before, Can. 1, that the Metropolitan should hold such Councils twice in the year, or if, as heretofore, unavoidable necessity hinder, at least, once in the year, it says<sup>6</sup>, "let every one meet without any feigned plea, without any excusing of persons, *i. e.* whether royal or private, without

<sup>5</sup> Hard. iii. 1448.

<sup>6</sup> Ib. 358.

any hindrance of any good whatsoever, except one be detained by most determined ailment. Neither through hindrance of Royal ordinance, nor through occasion of any private advantage, ought any to be separated from the Council, since the Apostle saith: ‘Who shall separate us from the love of Christ? shall tribulation, or distress, or persecution, or famine, or nakedness, or peril, or the sword?’ &c. Even a king’s command ought not to be preferred to a spiritual work, since it is the first commandment in the Church, ‘Thou shalt love the Lord thy God with all thy heart, and with all thy mind, and with all thy soul, and with all thy strength.’ Wherefore the person of no man whatsoever ought to be preferred to the command of the Lord, nor ought any earthly action or person to terrify those whom Christ hath armed with the hope of the Cross.”

The Council then pronounced excommunicate those who so absent themselves, until restored by a Provincial Synod, “nor,” it adds, “let any Bishop of another Province presume meanwhile to communicate with him; for he himself cuts himself off, who does not agree with his brethren in the body of the Church.”

The *fifth Council of Paris*, A.D. 615, has a rule against a Bishop suing another Bishop in a Civil Court, in any matter whatsoever, instead of in the Synod.

CAN. 11.—“According<sup>7</sup> to the former constitutions,

<sup>7</sup> Hard. iii. 553.

it hath seemed good, that if any Bishop wish to terminate any matter whatsoever with a brother Bishop, let him have recourse to the judgment of his Metropolitan. But if, despising the Metropolitan and the Bishops of the provinces, he go to the civil judge, let him be held severed from the charity of the Metropolitan, until, *in the next Synod*, he give, as he must give, account of this his deed before the brethren."

The *Council of Rheims*, A.D. 625:—

CAN. 5.—"Let<sup>8</sup> no one be rashly excommunicated; and if one, excommunicated, think himself unjustly condemned, let him have liberty of appealing at the next Synod; and if he be unjustly condemned, let him be absolved; but if justly, let him fulfil the period of penitence laid upon him."

The *Council of Rouen*, A.D. 650, decrees,

CAN. 8.—"According to the precaution of the Canons, let no unknown Bishop or Presbyter, coming from any place soever, admit Bishops or Presbyters to administration in the Church, before they be approved by a Synod."

From A.D. 660<sup>9</sup> civil wars brought to the French Church nearly a century of confusion and forgetfulness of the Canons. In 743, it is remarked there had been no Council in Austrasia for sixty years, because there had been no Archbishop to call one. When Bishoprics were filled, it had been worse than

<sup>8</sup> Hard. iii. 572.

<sup>9</sup> De Marca, vi. 24, 25.



when they were vacant, and the temporalities in lay hands. Carloman, its Duke, in A.D. 743, assembled the Council of Lestines at the desire of Archbishop Boniface, "to<sup>1</sup> give him counsel how the law of God and the religion of the Church might be recovered, which, in times past, had been scattered and prostrate." Its first Canon is to restore discipline and the annual Councils. "We enact that every year a Synod be gathered, that, in our presence, the decrees of the Canons and rights of the Church be restored, and the Christian religion [*i. e.* its practice] amended." In the next year, Pepin his brother, Duke of Neustria, did the same at the Synod of Soissons, A.D. 744. "We, with the counsel of the Bishops, Priests, and servants of God [the Abbots], have decreed that we ought to hold a Synod every year." Both Councils run in the name of the Duke. The Canons, however, were framed by the Clergy, as it is expressed in the last Canon. "If any transgress the decree which twenty-three Bishops with other Priests and servants of God, together with the consent of Prince Pepin, have made, he is to be judged by the Prince, and Bishops, and Counts, &c." Eleven years afterwards, after Pepin became sole King, a general Council of France at Vernon, A.D. 755, enacted that "there<sup>2</sup> should be two Synods, one the last day of February, wherever the King commanded, in his presence;" the other at the end of

<sup>1</sup> Hard. iii. 1920.

<sup>2</sup> Ib. 1995.

September at Soissons, or wherever the Bishops decided in the preceding Council. This, which was a purely Ecclesiastical Synod, "consisting of Metropolitans, Bishops, Abbots, and Presbyters, had not the office of making Canons, but watched over their observance and corrected sin." Its decision was made definitive, after the Bishops and Metropolitans had failed.

The *Capitulare of Charlemagne*, again, annexes the sanction of the State to the obligation of holding Synods twice in the year.

CAP. 13 ordains, on the authority of the Councils of Antioch and Chalcedon, that "twice in the year, the Bishops of the Provinces hold Councils with their Metropolitan for the affairs of the Church."

Again, according to a provision which we have already seen in the fourth Council of Toledo, the *Capitulare* enjoins, "Let causes, not common [*i. e.* not affecting more than the province wherein they arise] be judged in their provinces<sup>3</sup>."

In the Council of Frankfort (Can. 9) a Bishop accused of treason "was judged by our Lord the King and the holy Synod." The Metropolitans and Bishops of the province are commanded to degrade Gerbod, wrongly consecrated.

The first blow to the authority of Provincial Councils, says De Marca (vi. 14. 8), was given in the last years of Charles the Bald [died A.D. 877].

<sup>3</sup> Quoted by De Marca, vi. 25.

For Presbyters, when deposed and subjected to penance, who chose neither to acquiesce in the judgment of their Bishops, nor appeal to their Metropolitan, went to Rome, and there obtained letters against the Canons, in which, without cognizance of the cause, the judgments of their Bishops were rescinded, and they or their officers summoned to Rome, to plead against them; "which," says Hincmar, "we read not to have been decreed by any laws of the ancients, or by the rules of the fathers." For this practice Charles the Bald expostulated with John VIII. in an Epistle written by Hincmar<sup>4</sup>, Archbishop of Paris. "The Presbyters of the Transalpine regions, degraded from the priesthood for certain crimes, and put under penance, without licence or cognizance of their Primates come hither, and have begun to bring back hence letters, not according to the Canons. Which both we and the Bishops of that country suppose to have been given, not by the Apostolic command, but, as happens in the state too (through the manifold occupations of those appealed to), through the tender compassion of some minister." Then<sup>5</sup> he shews that Presbyters ought to be judged by their Bishops, and by the Synod of the province, if any complaint were made, For so it was decreed in the Councils of Nice, Antioch, Sardica, Constantinople, Chalcedon. Nor might those judgments be appealed from, as the

<sup>4</sup> Ep. 9. c. 2.<sup>5</sup> Ib. 13—17.

Council of Carthage expressly decreed: "A *transmarine* judgment shall not be valid," *i. e.* "neither is a *transalpine*," says Hincmar, "for it is the same thing." "This practice," he says, "has, for ages past, down to our own times, been maintained by the Transalpine Churches and their rulers; it has been followed by our forefathers, and their forefathers; that Priests and Deacons, if they complained of the judgment of their Bishops, appealed to the Synods of their Province, and then were judged regularly in those same Synods." "It may be," Hincmar continues, "that they who are in the provinces near this holy Roman see, and who, according to the sacred Canons, are wont to go thither for the imposition of hands and to Synods,<sup>6</sup> may, on appeal from their Presbyters, go to have the cause examined there. For so the sacred Canons command, that those who have any matters should go to the Primate of each Province, and that they who think themselves wronged, should be invited to the Synod, whither witnesses can be brought without difficulty. But to the Transalpine Churches, and those who live in countries equally distant, the Apostolic see and those who published the sacred Canons (the Holy Spirit speaking in them), appointed most discreetly, that those things should be held and practised, which should be practicable for each Province, and conformable to authority, and adapted to the peace of the Church."

<sup>6</sup> Which the Gallican Church did not.



Unhappily this was not acted upon. The evil which made the African fathers resist so earnestly appeals to Rome, the facility of deceiving at a distance, prevailed still. "How," they said<sup>7</sup>, "should a judgment beyond seas be valid, to which the persons, needed as witnesses, cannot be brought, through many hindrances, as weakness of sex, or age, and the like?" Whence they pray him earnestly, as being against the Nicene Canons, not to admit to his hearing, nor receive to communion those, excommunicated by them, "hastily, hurriedly, unduly." In like way Hincmar complains, "It avails<sup>8</sup> them [the Bishops] nothing, according to the sacred Canons and the decrees of the Roman See to assemble Provincial Synods for Presbyters accused of manifest crimes; but every Presbyter may do freely what liketh him. For if he be reprov'd for it, he will go to Rome. And since the Transalpine Bishops cannot, for every Presbyter regularly tried, send legates, and write the documents of the trial, nor produce there the witnesses needful, any one may, boldly lying, assert his innocence, since there will be no one to refute his lies." "The Bishops laid aside their Councils," De Marca thinks, "because they brought only expense and disgrace." The fourth Lateran Council<sup>9</sup> endeavoured to restore them, "to correct excesses and reform manners, especially

<sup>7</sup> Codex Eccl. Afr. c. 134.

<sup>8</sup> Ep. ix. c. 19, 20. De Marca, 6. 15. 3.

<sup>9</sup> Sess. 24 de Reform. c. 2.

among the Clergy;" but "the decree failed, because it did not remedy the evil whence the neglect accrued." A century afterwards, Durandus<sup>1</sup> laments "that the healthful practice of the Nicene Council was still disused." "It would seem useful that through the care of the Council it should be duly enforced."

The *Council of Basle* directed that those Synods should be held.

The *Council of Trent* enjoined that they should be "renewed wherever they were omitted," and held every third year. The "Ordonnance de Blois," De Marca says, "with the like pious care directs that Archbishops should hold Synods of their Provinces every third year; and takes away from the Magistrate the power of hindering these Councils. It forbids also appeals from them *tanquam ab abusu*. "But nothing of this sort," says the Archbishop, "has been observed hitherto (A.D. 1641) which yet ought to hold, and all the evils which have hindered, to be cut away. It would seem that the matter could be so tempered, as to infringe the authority neither of the Pope nor the King."

#### *Germany.*

In Germany, as soon as our St. Boniface, its apostle, had converted it, and settled Bishops' sees in it, it was ordained in a Council held by him, "that they would gather a Synod every year;" that every

<sup>1</sup> De Modo Concil. Celebr. Rubr. xi.

year the decrees<sup>2</sup> of the Canon and laws of the Church, and rule of a Regular life, be read in the Synod; that Bishops, returning from their diocese, should report what was done in the Synod, and should take to the Synod what was too hard for themselves to correct.

*British and Anglo-Saxon Churches.*

Without going into questions as to the genuineness of this or that very early British Synod, it will strike every one, looking into our early history, how all great public acts were done at Synods.

We have two Synods of St. Patrick; Dubritius, A.D. 512, was made Archbishop, his successor Bishop of Llandaff, in a Synod, according to the ancient rule<sup>3</sup>; St. David and others, A.D. 516; the Pelagians are refuted in a Synod, A.D. 519; the British Bishops meet St. Augustine in Synods; repeated Synods are held about the way of keeping Easter, about the variance between Archbishop Theodore and St. Wilfred, and, in later times, about the replacing of secular Canons by regular. A Synod of Mercia<sup>4</sup>, A.D. 705, gives in charge to Bishop Aldhelm, when a Presbyter, to write against the British way of keeping Easter; in A.D. 707, a new Bishopric was formed by a decree of a Synod<sup>5</sup>, royal donations to a monastery or a cathedral church were given in a

<sup>2</sup> Ep. S. Bonifac. ad Cuthbert Arch. Cant. (Spelman, i. 237, seqq.)

<sup>3</sup> Spelman, i. 60.

<sup>4</sup> Bede, v. 19.

<sup>5</sup> Spelman, i. 208.

Synod<sup>6</sup>, a dispute about land between a Bishop of Worcester and the monks of Berkeley, is settled in a Synod<sup>7</sup>, A.D. 824. A synod of London<sup>8</sup>, A.D. 605, decided upon incestuous marriages, and “that the sacrament of regeneration was null, if one Person in the Trinity was not named.”

On some new disturbance, under Ine, King of the West Saxons, A.D. 705, “forthwith a synod of the servants of God was, with his counsel, held by the Bishops. The Council consulted the Archbishop of Canterbury, and thenceforth he was *very frequently* present in the synods<sup>9</sup>.”

The *British Church* is herein, at its later times also, a distinct evidence from the Saxon Church. Remaining separate in Communion, as it did, from the Saxon, and with a strong prejudice against its customs, wherein they differed from its own, it is not to be thought that the British Church should have borrowed the practice from the Saxon.

In the first *Synod of St. Patrick*, all recourse to a Civil Court was forbidden, but perhaps because the Courts were heathen.

CAN. 21.—“If a Christian summon any one who

<sup>6</sup> Evesham, Spelman, i. 215. St. Albans, ib. 310. 314 : Croyland, ib. 336. 344. 428 ; Church of Canterbury, ib. 340. (from which it appears that the assent of the nobles was required to ratify the king's grant) 504 ; Winchester, ib. 435 ; Malmesbury, ib. 488 ; Glastonbury, ib. 435. 483.

<sup>7</sup> Spelman, p. 354.

<sup>8</sup> Mentioned by S. Boniface. Ep. ad Zachar. P. Wilkins, i. 29.

<sup>9</sup> Willebald vit. S. Bonifac. Ib. 70.



shall have offended against him, to judgment, and not to the Church, that his cause may be examined there, let him be an alien."

In the British Church, as it lived on in Wales, we have a strange picture (yet not unwonted in those times) of deeds of dreadful violence, and of the strength of the Church in bringing to repentance those whom it could not restrain from sin. There is yet preserved a series of diocesan Synods of Llandaff, wherein the censures of the Church were pronounced, which brought back the petty Kings of Wales to repent even of deeds of blood.

To take the three first.

About A.D. 560, we have three Synods<sup>1</sup> of Llandaff under Oudoceus, its third Bishop. In one, "in full Synod," he excommunicated Mouric, King of Glamorgan, for murder in a feud; in another he restored King Morcant, whom he had before excommunicated; in a third, he excommunicated a fratricide, who, after four years of penitence, was restored by his successor.

These were Diocesan Synods. But the existence of other Synods, for ends of discipline, is attested in the laws of Hoel the Good, A.D. 940, which are professedly founded on ancient customs.

2.—"Whoso<sup>2</sup> doth injury to a priest, or slays him, let him be punished by the judgment *of the Synod*."

22.—"An Ecclesiastic bound by Holy Orders,

<sup>1</sup> Ib. pp. 62-64.

<sup>2</sup> Ib. p. 409.

may not be impleaded by [civil] law, against any judgments, &c. All sacrilegious injuries done to Ecclesiastics ought to be amended *in the Synod*, according to Ecclesiastical law.”

32.—“No Ecclesiastic can be compelled to answer any one *out of the Synod* for offences alleged against him.”

These laws go further than is needed, in that they exempt not Ecclesiastical causes only, but Ecclesiastics themselves, from any civil tribunal. But they prove the existence of Synods as the recognized method of the British Church for the trial of Ecclesiastical offences.

After the conversion of the Saxons, we find these yearly Synods enacted, seventy years after St. Augustine's death, in the *Council of Herudford*<sup>3</sup> [Hertford], Sept. 24, A.D. 673, under Archbishop Theodore, and that, in distinct reference to ancient practice. “We met,” says their Synodical letter, “according to the custom of the venerable Canons, to deliberate on necessary business of the Church. I, Theodore, asked each of the Bishops in order, whether they agreed to keep those things which were of old decreed by the Fathers. Whereto all our brother Bishops answered, ‘We are all well pleased to keep, most willingly and with glad mind, whatsoever the Canons of the holy fathers have defined!’ To whom I straightway produced the same book of Canons,

<sup>3</sup> Bede, iv. 5. Spelman, t. i. pp. 152-4.

and out of it, I shewed them ten Canons, which I had noted, because I knew them to be most needful for us, and prayed that they might be diligently received by all."

One of the ten Canons thus selected at once, and enacted as most needful for the English Church, related to the yearly Synods. Like the third Council of Toledo, the Bishops maintained that there *ought* to be two Synods yearly, but acquiesced (if it could not be otherwise) in one.

CAN. 7.—"That a Synod be assembled twice in the year; but because different causes hinder, all agreed in common that it should be assembled once in the year on August 1, at the place called Clafeshooh."

The same provision was subsequently incorporated into the code<sup>4</sup> of discipline of the English Church.

In the great *Council of Becancelde*, A.D. 694, (as we shall see hereafter,) King Withred solemnly disclaims all Ecclesiastical jurisdiction.

After this, the Synods are variously alluded to as in being and operation. "The Synod" is spoken of, as the place where Ecclesiastical matters are to be

<sup>4</sup> In a larger collection of Canons of Theodore (D'Achery Spicileg. t. 9.) No. (36) 127, there is a Canon, taken from the Apostolic Canon, but in part a mistranslation. Yet it shews how the Apostolic Canons were in use in the British Church. "Twice in the year let Bishops hold Councils, *i. e.* in the fourth week after [it should be, *of*] Pentecost; secondly, on the twelfth of the month Hyperberetæus, *i. e.* iv. Id. Oct. according to the Romans."

transacted, just as we speak of "Parliaments" for civil.

The *Council of Cloveshoe*, A.D. 747, was held by Archbishop Cuthbert, at the suggestion of Pope Zachary and St. Boniface, Archbishop of Mentz. It framed two Canons on Episcopal and provincial Synods, upon two of those recently enacted in a Council held by St. Boniface.

CAN. 3.—"Let each Bishop fail not, every year, to visit his diocese, going round and through it, and in fitting places call the people of different conditions and sexes, and teach them openly, inasmuch as they seldom hear the word of God, &c."

CAN. 25.—"Let<sup>5</sup> Bishops, coming from the Synod, hold a Convention in their own Dioceses, with the Presbyters, Abbots, and Provosts; and communicate and enjoin the observance of the commands of the Synod; and let each Bishop, if unable to correct and amend any thing in his own diocese, communicate the same *at the Synod* before the Archbishop and all openly, that it may be amended."

So then the Bishop was, year by year, in each part of his diocese, to see if any thing needed correction; and if any thing was too strong for him, there was an ultimate appeal to the Synod.

<sup>5</sup> Ib. i. 238, 251. The words "*eodem modo quo Romana Ecclesia nos ordinatos cum sacramento constrinxit*" of the German Canon, had no place in the English, who were not so bound. Else the Canon is verbally copied, the words "*Et Præpositis*" only being added.



*Archbishop Egbert*, A.D. 750, in his *Excerptiones*, repeats from *Archbishop Theodore*, Can. 56, "Let Presbyters, without the authority and consent of Bishops, neither be placed in any Churches, nor expelled thence; and if any essay to do this, let him incur the sentence of a Synod;" and Can. 86, from *Isidore*, "Let no secular judge the judgments of the Church."

In A.D. 785, were the legatine Canons accepted at the *Council of Calcuythe* <sup>6</sup>.

CAN. 1 prescribes an annual examination of the faith of the Clergy according to the Councils:—

"First of all admonishing, that the holy and inviolable faith of the Nicene Council be held faithfully and firmly by all dedicated to the sacred service, and that every year in Synodal Conventions, the Presbyters of the several Churches, who ought to instruct the people, be examined most diligently by the Bishops, as to the faith itself, so that they may in all things confess, hold, and preach the Apostolic and Catholic Faith of the six Synods, approved by the Holy Ghost (as it has been delivered to us by the Holy Roman Church), and (if occasion come) fear not to die for it, and receive whomsoever the holy General Councils have received, and from the heart reject and condemn whom they condemned."

CAN. 3 prescribes<sup>7</sup> that two Provincial Synods be held yearly, with the express object of discipline,

<sup>6</sup> Spelman. i. 291.

<sup>7</sup> Ib. p. 293.

and that with reference to the existing Canons. It does not enact, but enforce; as it does also the Bishop's yearly visitations. "Every year, we prescribed according to the canonical constitutions, two Councils, that as good husbandmen cut off the suckers when first they appear, so the Bishops may eradicate the thorns from the hearts of sinners."

CAN. 10 rehearses that they "had seen Bishops in their Churches judge in Council secular causes, and forbade them in the Apostle's words, 'Let no man that warreth entangle himself with the affairs of this life: that he may please Him Who hath chosen him to be a soldier.'"

In the *second Council of Cloveshoe*<sup>s</sup>, A.D. 800, we find the first object is to inquire into the doctrine and morals of the province.

"We inquired with an anxious scrutiny in what state the Catholic faith among them was, and how the Christian religion was practised."

The *Council of Calcuythe*, A.D. 816, confirming (as the wont was) former Synods, and enforcing their Canons, makes provision for a special case before the Synod.

CAN. 6.—"If any be invited by his accusers to the synod, and delay not, being ready, a first, second, and third time, to give an account, and the accuser decline, and defer to bring forward his cause, we shall judge afterwards, that nothing be further re-

<sup>s</sup> Ib. p. 318.

quired of him, but he [the other] be content with his own."

CAN. 9.—"Every Bishop ought to write down whatever judgment was passed in any synod whatsoever, or what belongs to his diocese. Let him write down in order too the date of the year of the Lord, and by what Archbishop and other Bishops his assessors, that judgment was investigated and confirmed, lest any one in his diocese to whom a right judgment was given, should by false machinations and evil cunning decline from it."

Two copies were to be taken, one to remain with the party to whom the judgment belonged, the other to be kept at the Bishop's see.

About the latter half of the next century, under Edgar, A.D. 967, there is a body of Canons<sup>9</sup>, probably drawn up in a Council, in that the plural is used. These also give directions as to certain details in the annual Synods, as being habitually held. It does

<sup>9</sup> Spelman, i. 447. He translated them from a very old Saxon MS. at Benet Coll. Cambridge. The date is not fixed, but "the title says that they belong to the Constitutions of Edgar." Collier (i. 398) remarks on the antiquity of the Pœnitentiale united with it, that, in the form of confession, no mention is made of the saints, except in a petition to our Lord at its close, "Bring me to Thy Heavenly Kingdom, that I may be there with Thine elect and saints for ever" (§ 10, Spelman. i. 459); and where different prayers are assigned to be said penitentially, as the 32nd Psalm, and the Lord's Prayer, each six times; or the Lord's Prayer sixty times; or the 51st Psalm and the Lord's Prayer "with true contrition and right faith," each fifteen times: no mention is made of the Ave Maria (§ 18, Spelman. p. 473).

not indeed appear whether they speak of Diocesan or Provincial Synods, but they equally attest the existing system.

CAN. 3.—“For every Synod, annually, let there be had books and habits fit for the service of God; and ink and parchment to write down their constitutions, and moreover provisions for three days.”

CAN. 5.—“If any harm happen to a Priest, or any do him an injury, let him refer it to the Synod, and let all receive it as done to all, and let them give aid, that amends be done, at the appointment of the Bishop.”

CAN. 6.—“Let a Priest make known to the Synod, if he find any in his parish, contumacious towards God, or who cherishes any grave sin, and he cannot or dare not, for fear of secular men, bring him to reformation.”

CAN. 7.—“Let there not be suits or quarrels between Priests, nor let them be brought before the judgment of laymen; but either be settled by their own order, or (if need be) carried up to the Bishop.”

A little later, A.D. 978, the Constitutions of Northumberland<sup>1</sup> (Can. 44) laid a fine upon any Priest absent from a Synod.

In the Synod of Greatley, A.D. 928, under King Athelstan, it had been recognized as the duty of the Bishop to sit in the secular courts<sup>2</sup>.

CAP. 11.—“To the Bishop it belongeth by right

<sup>1</sup> Spelman. i. 499.

<sup>2</sup> Ib. 404 in Latin, from the MSS. Reg. and Jornal.



to promote all which is right, whether in the things of God or of the world. Especially he ought to instruct every one ordained (to judge) what he ought by right to do, and what he ought to judge to seculars. He ought also diligently to cultivate peace and concord with secular judges, who wish what is right; and teach them that no one do another wrong in oath or in the ordeal. It is needful for all Christians to love what is right, condemn what is wrong. At least let all promoted to Holy Orders ever support what is just, put down what is unjust. Hence Bishops ought to be present with secular judges in their judgments, that they may, if they can, prevent any germs of iniquities from budding."

"In those ages," Spelman says<sup>3</sup>, "the mouth of the priest was the oracle of the people, the mouth of the Bishop the oracle of the King and the State. Bishops therefore sat first in all assemblies and tribunals of the realm; in the King's palace with the nobles; in the county-court with the Earl and Justiciary of the county; in the sheriff's court with the sheriff; in the hundred with the Hundredary. So in promoting justice, *gladius gladium adjuvaret*, and nothing should be done without advice of the priest, who was as the ballast in the vessel."

Some disorder however, in consequence, crept in, in the course of the ensuing century, and the civil judges had aided in judging Ecclesiastical causes.

<sup>3</sup> T. i. Præf.

Twenty years after the Conquest, A.D. 1086, William the Conqueror, by the advice of the Clergy and laity, amended it, *as contrary to the Canons*, and reserved Ecclesiastical causes to the judgment of the Bishop, instead of their being determined in a mixed Court. It is altogether improbable that the previous irregularities had related to false doctrine, since in A.D. 1159, three centuries and a half after St. Augustine's death, it is noticed by an historian<sup>4</sup> that England had not been troubled by heretics since the Saxons settled here.

However, irregularities there had been, as it is admitted in the Charter of William I., which, when the liberties of the Church were again infringed, was pleaded to Edward I., by Archbishop Chicheley.

It runs thus:—

“Know all ye, and all the rest of my lieges in England, that I, by common consent and counsel of the Archbishops, Bishops, and Abbots, and all the nobles of my realm, have judged that the Episcopal laws which, in the realm of England, up to my time, have not been right nor according to the precept of the holy Canons, be amended. Therefore, I command and enjoin, by royal authority, that no Bishop or Archbishop should any more hold pleas as to Episcopal laws in the Hundred, nor bring a cause which pertains to the rule of souls, to the judgment of secular men. But whosoever shall

<sup>4</sup> Nubrig. l. ii. 13. Spelman, t. ii. p. 59.

be accused for any cause or fault whatever according to the Episcopal laws, let him come to the place which the Bishop shall choose and name for that end, and there answer for his cause or faults, and not according to the Hundred, but according to the Canons and Episcopal laws, and do what is right to God and his Bishop. But if any, through pride, refuse in contempt to come to the Bishop's Court, let him be summoned thrice; but if even so, he come not to be corrected, let him be excommunicated; and, if needs be, let the king's or sheriff's power be employed to redress this. This, too, I forbid by my authority, that any sheriff, provost, or King's officer, or any layman, interfere in laws which belong to the Bishop. Nor let any layman bring another to judgment without hearing of the Bishop's Court. Let judgment be passed in no other place save in the Bishop's see, or wheresoever he may erect a Court."

The annual Synods must have continued after the Norman invasion. For the suspension of them for thirteen years, by William Rufus, is spoken of as a very great evil. Eadmer<sup>5</sup> speaks of it in the language of the Canon of Calcuythe. "The culture of Synods ceasing for many years, the thorns of vices growing up, the fervour of the Christian religion was over-much chilled in England." Pope Paschal<sup>6</sup> complains, in an Epistle to Henry I., that appeals

<sup>5</sup> Hist. Novel. l. iii.

<sup>6</sup> Ib. l. v.

“in graver causes” were stopped, and Synodal Councils held. To these we owe our Provincial Constitutions. The Episcopal Synod is enjoined<sup>7</sup> in the Council of Winchester, A.D. 1076, and mentioned incidentally by Peckham<sup>8</sup>, as existing A.D. 1281, and by Othobon<sup>9</sup>, A.D. 1265.

Lyndwood<sup>1</sup> says, “they *ought* to be celebrated yearly.” In the first half of the 14th century, the annual Provincial Councils had ceased. “It is enjoined,” says John de Athon<sup>2</sup>, “that the Provincial Council be held every year; which therefore is not to be neglected. But at this day it is in fact omitted.” Yet although not now annual, it was convened from time to time. Archbishop Stratford, A.D. 1341, assembling<sup>3</sup> one after eight years, owns the Canon as in force. “Although it is ordered by the sacred Canons, that the Metropolitan Bishops and Primates ought every year, when there is no lawful hindrance, to celebrate a Provincial Synod, for the correction of excesses and information of manners.”

The mandate by which the Archbishop summoned

<sup>7</sup> Can. 13. The 11th prescribes that Bishops alone should give penance for crimes.

<sup>8</sup> “Rural Deans were to take an oath in the Episcopal Synod every year.” See in Gibson’s Codex, p. 1003.

<sup>9</sup> Tit. 36, de legendis constit. ver. fin. He directs “the constitution to be read by the Archbishops and Bishops every year, word for word, *in their synods*.”

<sup>1</sup> On Boniface de Hab. Cler. in Gibson, p. 166.

<sup>2</sup> On Othobon Procem. Athon died A.D. 1350, A 4, p. 8.

<sup>3</sup> “By a writ dated 10 Kal. Aug. 1341.” Atterbury, Rights of an Eng. Convoc. p. 64.



this Council contained the clause, "Provided that each Bishop, before he quits his diocese for the said Council, deliberate and inquire wisely into the grievances and defects to be reformed by the care of the said Council." The same clause being contained in a mandate of Archbishop Mepham, in 1328<sup>4</sup>, it was, no doubt, an integral part of the mandate for summoning Provincial Councils.

It seems probable that, in later times, the regular meeting of Convocation superseded the Provincial Councils, as consisting of the same persons, though not acting altogether in the same way. The penalties<sup>5</sup> annexed for quitting Convocation without leave, are the same as those appointed by the Canons for so quitting the annual synods. It sat always when Parliament sat; often when Parliament did not<sup>6</sup>. Kings had occasion for it, because it granted them revenues; and these being often triennial grants, their meeting at least every third year, was the rather secured. The writs for summoning them ran, "Convene them as usual<sup>7</sup>." The same language was used by Cranmer<sup>8</sup>, Philpot<sup>9</sup>,

<sup>4</sup> In Atterb. p. 283.

<sup>5</sup> Even excommunication (in the case of Bishop Cheyney) or suspension. Atterb. p. 52.

<sup>6</sup> Atterbury had noticed above sixty instances of Convocations without Parliament in about 240 years, from 1297 to 1538 (p. 385).

<sup>7</sup> "More solito." under Edw. III. Atterb. p. 46.

<sup>8</sup> "De more Regni Angliæ." Ib. p. 69.

<sup>9</sup> "After the old custom."

and Pole<sup>1</sup>. But even as late as the first year of Henry VIII., Archbishop Warham summoned Convocation to consider the state of the Church, independently of the Crown, by his own authority as Primate<sup>2</sup>.

In matters of Reformation, "grievances of the Clergy," or "Articles of Reformation," "things to be reformed by the Pope, by the Archbishop and suffragans, by Convocation, by Parliament," (we are told by one<sup>3</sup> who examined their records diligently,) were constantly presented. As an instance, "Among<sup>4</sup> other things, it was proposed by the Clergy that the Bishops would deign to put the Canons in execution. First, as to your professions, that they be read before you at least twice in the year. 2. On visitations. 3. On the residence and government of Bishops. 4. On the government, carriage, and dress of your families." To which it was answered by the Upper House, "All these things are promised, enacted, and granted, and shall be executed by each, to whom it appertains, as he will answer to God, and the next Provincial Council."

When need was, "in matters of jurisdiction, the

<sup>1</sup> "We, the Bishops and Clergy of the Province of Canterbury, gathered in this synod, *more nostro solito*, while the Parliament of the realm is assembled." (Ib. p. 70.) "The Synod, which is called the Convocation of the Clergy, and is *always* held together with Parliament." (Ib. p. 67.)

<sup>2</sup> See his original summons in Burnet Records, b. i. n. 4.

<sup>3</sup> Atterbury, pp. 20, 21, and 28.

<sup>4</sup> Regist. Arundel. Ib. p. 21.

Lower House prosecuted, the Upper House gave sentence." "For which reason," adds Bishop Atterbury<sup>5</sup>, "the Act 24 Hen. VIII. c. 12, which in all cases relating to the king, or his successors, allowed an appeal to Convocation, mentioned the Bishops, Abbots, and Priors of the Upper House only, because they were the judges." So that, in this seeming exception, the Act 24 Hen. VIII. c. 12, carried on the old law. Yet, whether Convocation partook too much of a secular character, from its connexion with Parliament, or from whatever cause, it had not the same efficacy as the Provincial Councils. Dean Colet's sermon to the Clergy in Convocation, at the beginning of Henry VIII.'s reign (A.D. 1511) is a remarkable testimony in this respect. He prays<sup>6</sup> the Clergy with their whole mind to think of the reform of the Church, deplores the avarice and consequent oppression, the reigning secularity, the ignorance and blindness which sees nothing but the things of earth. He prays the Clergy, "Awake at last from this your sleep in this lethargic world. We need not new laws and constitutions, but that the old be adhered to." He specifies laws against simony, laying on hands suddenly, on canonical elections of Bishops with invocation of the Holy Spirit, their residence, &c. "Lastly," he says, "be those laws and constitutions of the Fathers renewed which require Provincial Councils to be held more

<sup>5</sup> Ibid. p. 51.

<sup>6</sup> See Extracts. Ibid. pp. 291-3.

frequently for the reformation of the Church. For nothing happeneth to the Church of Christ more calamitous than the omission of Councils, both General and Provincial."

But as to judgments about Ecclesiastical offences there is no question. What Henry II. claimed in this respect "as the customs and liberties of his forefathers" in the Constitutions of Clarendon, were<sup>7</sup> (1) that Clerks should for *criminal* offences, be tried in the Civil Court, remitting them to the Ecclesiastical Court, for that part which belonged to it; and (2) that there might, on appeal to the King, be a revision of the Archbishop's sentence, but *in the Archbishop's Court*. The first was probably a Norman law; for the first Council of Maçon, A.D. 581, reserves certain<sup>8</sup> criminal causes against Clerks to the secular judge. The second, which was repealed after the murder of Becket, was perhaps an application of the right of Kings to grant revision of a sentence, which we have seen in the case of Emperors, and which gave rise to the "*appellationes ab abusu*" in the Gallican Church. Cases of heresy, whether of Clerks or laymen, continued to be decided by the Provincial Synod<sup>1</sup>; and King Henry

<sup>7</sup> Const. 3 and 8.

<sup>8</sup> Can. 7. The body of the Canon mentions murder, theft, and witchcraft; the title says generally "*extra criminalem causam*."

<sup>1</sup> Fitzherbert, de Nat. Brev. f. 269, gives the form, "Whereas the Venerable Father Thomas, Archbishop of Canterbury, Primate of all England, and Legate of the Apostolic See, with the



VIII. acknowledged both in his proclamation<sup>2</sup> and by his Acts<sup>3</sup> of Parliament, that heresy belonged to the judgment of Bishops only.

X. *Extra-ordinary Councils.*

*The Emperor, at St. Ambrose's desire, first summoned a General Council to Aquileia, then changed it into a Provincial<sup>4</sup> Council.*

In the Council of Aquileia<sup>5</sup>, St. Ambrose directs that the Imperial rescript be read.

“Our discussions must rightly be confirmed [firmandæ] by the Imperial rescript, in order that they may be alleged.”

“The Imperial edict is recited in the Council.

“Sabinianus the deacon recites it.

“Wishing to essay as soon as may be that the priests should not disagree, with a doubtful reverence for doctrines, we had commanded that the Bishops should meet in the city of Aquileia, in the diocese

consent, and assent, and advice of his fellow-Bishops and suffragans, and of the whole Clergy of his province, in his Provincial Council assembled, all the forms of law required herein having been observed in all things, have by their definitive sentence pronounced W. Sawtree—to be a manifest heretic, and decreed that he is to be degraded.”

<sup>2</sup> A.D. 1530. Wilkins, iii. 737.

<sup>3</sup> 23 Hen. VIII. c. 9, speaks of the Archbishop citing when the Bishop was negligent. 25 Hen. VIII. c. 14, most distinctly acknowledges the authority of Bishops to judge of heresy, to the exclusion of the civil courts. See below.

<sup>4</sup> Besides Italian Bishops, there were present legates from France and Africa, and the Bishop of Sirmium, as representing Illyricum, and Evagrius, presbyter and legate.

<sup>5</sup> Among the Epistles of St. Ambrose, t. ii. p. 821.

intrusted to the merits of thy excellency. For controversies of doubtful meaning could not be more rightly cleared, than by our making the Bishops themselves the interpreters of the dispute which had arisen; so that by the same from whom the instruction in doctrine emanateth, the contradiction of an inharmonious teaching should be ended.

“Nor do we now command otherwise than we did command, and we change not the tenor of the direction, but reconsider the superfluous number of those congregated. For as Ambrose, by the merits of his life and the vouchsafement of God, the eminent Bishop of Milan, suggests that there is no need of a multitude there, where if truth should be deposited with a few, it would not be hampered by many, and that he and the priests of the neighbouring cities of Italy would abundantly suffice against the declarations of those who oppose themselves, we have thought it right to abstain from wearying venerable men, lest any, either weighed by mature age, or oppressed by bodily weakness, or inadequate through a praiseworthy poverty, have to seek an unaccustomed land, &c.”

St. Ambrose says, “Because in former times a Council was so held, that the Easterns had their Council in the East, the Westerns in the West; we, being placed in the West, have met at Aquileia according to the Emperor’s *command*” (*præceptum*).

XI. *In early General Councils, the representatives of*

*the Civil power prescribed the order in which subjects should be handled. The Emperor was even allowed to rescind what was contrary to that order.*

“At the second Council of Ephesus<sup>6</sup>, Elpidius was present with instruction from the Emperor that ‘the subjects proposed for consideration should go on in order.’”

The same took place at the Council of *Chalcedon*.

In the first Council of *Ephesus*<sup>7</sup>, John of Antioch, who lingered until after Nestorius was condemned<sup>8</sup>, formed a Conciliabulum which condemned St. Cyril, and was himself condemned by the Council. Theodosius’ representative at the Council (Candidianus), who favoured Nestorius, persuaded Theodosius that the proceedings of the Council had been out of the order. Theodosius rescinded them. “Whence it hath seemed good to our sacred Majesty that such perversion of the order should have no place. Those things then being annulled, which were done out of the order, the discussions as to godliness shall be investigated, as it seemed good at first, and that which seems good to the whole synod in common shall be of force for the time to come.”

Palladius accordingly was sent back with Candidianus “according to our command, to know what

<sup>6</sup> De Marca, 4. 3. 6. Hard. ii. 76-7.

<sup>7</sup> Ib. Petav. de Incarn. 1. 8.

<sup>8</sup> The legates of Pope Celestine also were not arrived, the notice being so brief, but they read the Acts and subscribed the condemnation of Nestorius. Concil. Eph. p. 333. Ed. 1636. Hard. i. 1481-2.

had been done, and to hinder things out of the order<sup>9</sup>."

The Council does not complain of this interference, but says, "We beseech your Mightiness that five of the holy synod should be sent to confer with your Piety as to the things done<sup>1</sup>."

Theodosius summons<sup>2</sup> seven Bishops on both sides, to consider the matter. The mandate of the false council to its deputation ran, "Whether<sup>3</sup> the inquiry as to the questions mooted should take place before the most pious king, or in the Consistorium, or before the sacred senate, or in a synod of fathers."

Both having been heard at Constantinople, "the king<sup>4</sup> was fully satisfied that the holy and Œcumenical Synod had done all things canonically and in order," and confirmed it.

XII. *A General Council acknowledged that they could not act without command of the Emperor.*

"In<sup>5</sup> the Council of Constantinople, under Menas after Anthimus had been condemned for heresy, many Bishops demanded earnestly of the Patriarch that Severus, Bishop of Antioch, Peter, Bishop of Apamea, and Zoaras, a monk, the accomplices of his heresy, should be condemned. The Patriarch answered, 'Nothing moved in the Council should be

<sup>9</sup> Conc. Eph. p. 375. Hard. i. 1538-40.

<sup>1</sup> Ib. p. 399. Hard. i. 1584.

<sup>2</sup> Ib. p. 419. Hard. i. 1668.

<sup>3</sup> Mandat. Orientalium. Labbe, t. iii. p. 725.

<sup>4</sup> Conc. Eph. p. 398. Labbe, p. 745.

<sup>5</sup> De Marca, 6. 22. 4.



done without the mind and command of the Emperor. We beseech you, therefore, beloved, that we may have time to refer to his sacred hearing what you have called for.' In the fifth Action are the petitions sent to Justinian by the Bishops of the second Syria, and the Archimandrites, beseeching him to direct the Patriarch and the synod to pass judgment on those heretics. The mandate of the Prince was issued, it was brought to the synod by Theodorus the Referendary, who brought his sacred mandate, whereby he enjoins your sacred synod to discuss all things contained in the petition<sup>6</sup>."

XIII. *Princes have suggested even the doctrinal subject of a General Council, and carried it through.*

The case of the *fifth General Council* is very strong. It met at no desire of the Church, rather against its wish. There was no apparent need for it; no present wants or evil to remedy. Those, certain of whose writings it condemned, had died in the peace of the Church. St. Cyril, of Alexandria<sup>7</sup>, had strongly dissuaded the condemnation of Theodorus.

The condemnation<sup>8</sup> of the three chapters was suggested by a secret heretic, Theodore of Cæsarea, with the professed object of restoring unity, but really to cast a slur on the Council of Chalcedon. It was urged on the Church by the Emperor Justinian, who himself died a heretic. God preserved

<sup>6</sup> Act. v. Conc. C. P. sub Mena. Hard. ii. 1269.

<sup>7</sup> See Petav. de Incarn. i. 11. 6.

<sup>8</sup> Ib. i. 18. 7, seqq.

the reverence for that Council, while writings of persons whom the Council had acquitted were condemned. The Church has received and respected the fifth Council, as condemning error. Its immediate effects were most miserable. "The question<sup>9</sup> distracted the Catholic Church with a vehement and almost destructive dissension." "Besides the old contention between the heretics and the Catholics, there arose a new contest among the Catholics themselves, sore and difficult to be healed. For most of the Bishops of Africa, Istria, Liguria, Venice, even Tuscany and Ireland, could with difficulty be brought to reject the three chapters and subscribe the Council, until at last, all that conflagration was put out by the continued labour and watchfulness of the Roman Bishops. Witness many epistles of Gregory the Great, who laboured much in healing this disease."

XIV. *Princes have been allowed to suggest subjects to Provincial Councils, and confirm their Decrees.*

*Council of Orleans i. A.D. 511:—Synodical Epistle to Clovis.*

"Because your great care of the well-being of the Catholic faith causes you, with the feelings of a priestly mind, to bid the priests be gathered together to treat of things necessary, we, following the consultation of your will and the heads [*tituli*], have answered, defining what seemed good to us; so that, *if what we have ordained is approved to be right by*

<sup>9</sup> Ib. 1. 11. 2. and 18. 14.

*your judgment also*, the consent of so great a King and Lord may, with the greater authority, confirm the sentence of so many priests<sup>1</sup>.”

Among the canons thus submitted for confirmation are some, as to the officiating of Clerks converted from Arianism, and the re-consecration of Churches of Arians; that Clerks, placed out of Communion, might, if need were, baptize; and of the excommunication of the widows of Clergy, if they married; or of those under penance, who relapsed to secular things; of the duration of Lent; the Rogation-days; leaving Church before Mass was finished, or before the Bishop's blessing<sup>2</sup>.

*Council of Poitiers*<sup>3</sup>, A.D. 590:—

“Pious and Catholic princes having, by the favour of God, been given to the people, it is very right that religion should lay open its causes to those, unto whom the region is given, understanding (the All-Holy Spirit participating) that they are united and established by the decree of those who rule.”

“The rule of St. Columban being charged with superstition, King Clothaire decreed (A.D. 627) that it should be tried by the examination of a Synod.”—

“Then, the royal authority emanating, many Bishops of Burgundy [*i. e.* the kingdom, embracing nearly half of France,] meet at Maçon<sup>4</sup>.

King Clovis gathered a *Council at Orleans*, A.D. 645,

<sup>1</sup> Hard. ii. 1008.

<sup>2</sup> Can. 10—13. 24—27.

<sup>3</sup> Greg. Turon. x. 16. De Marca, 6. 22. 6. Hard. iii. 527.

<sup>4</sup> Conc. Gall. t. i. p. 477.

to try a Monothelite heretic<sup>5</sup>, who had fled from Greece. The heretic was condemned and expelled the kingdom.

A Synod<sup>6</sup> decreed, Can. 1, "That the Constitutions decreed at Paris [Council V. A.D. 615], i. e. *as well by the Lord Bishops as by the Lord King Clothaire*, be maintained in all things, according to the ancient constitutions of the fathers, because they have been found in no way contrary to the Catholic or Ecclesiastical rule."

### *Spanish Councils.*

In the *third Council of Toledo*, A.D. 589, King Recarede first recommends to the Council a three days' fast; then he lays before them a rule of faith to be adopted:—

"Whatsoever is to be done in words in your Episcopal body, as to our faith and hope, we make known, written and alleged in this Tome. Let it be read then in the midst of you, and having been examined by a synodal judgment, may our glory, adorned by the testimony of the same faith, brighten all succeeding time."

The Tome is then read. Then King Recarede confesses and signs the Nicene and Constantinopolitan Creed, and the tractate of the Council of Chalcedon<sup>7</sup>, as the one Faith which the Catholic Church

<sup>5</sup> Vita S. Eligii, i. 34. Ibid.

<sup>6</sup> "Appended, without a name, to the 5th Council of Paris in the Rheims MS." Sirmond.

<sup>7</sup> See in Labbe, t. iv. col. 565-6.



throughout the world confesses. Then one of the Bishops asks the Council, *in the Name of the King*, to anathematize Arianism distinctly and put this on record. To which all the Bishops, Priests, and Nobles of the Goths assent. Then follow twenty-three anathemas, on various points of heresy, on accepting the Council of Ariminum, and rejecting the four General Councils, which are subscribed by the Bishops.

King Recarede then continues:—

“ Since then your Blessedness has now gone over the form of our faith and confession in full order, and, at the same time, the faith and confession of the Priests and our Nobles has been made known to your Holiness, our authority, in dependence upon God, hath decreed this also, as necessary for the firmness of the Catholic Faith, that to strengthen the recent conversion of our nation, all the Churches of the Spains and Gallicia observe this rule, that all, at the time of the Sacrifice, before the Communion of the Body and Blood of Christ, should, according to the custom of the Eastern parts, rehearse together in a loud voice the most sacred Creed of faith, that the people may first confess the belief they hold, and so may present their hearts purified by faith to receive the Body and Blood of Christ. To all the Canons then, which are yet to be added by your Holiness to the ecclesiastical rules, prefix, for the reverence and firmness of the holy Faith,

this which, God *teaching me*<sup>8</sup>, my Serene Highness hath *decreed* as to repeating the Creed. For the rest, do ye, for restraining the manners of the violent, (my Clemency consenting with you) determine strictly and with a firmer discipline; what is not to be done, forbid; what ought to be done, confirm by an irrevocable decree."

The 2nd Canon embodies the King's suggestion: "For the reverence of the most Holy Faith and for strengthening the weak minds of men, the holy Synod hath enacted, at the Council of the most pious and glorious King Recarede, that in all the Churches of Spain, Gaul, and Gallicia, according to the form of the Oriental Churches, the Creed of the Council of Constantinople of the 150 Bishops be recited, so that before the Lord's Prayer be said, it may with a loud voice be confessed by the people; that both the Faith may receive a manifest witness, and the hearts of the people may come purified by faith to taste the Body and Blood of Christ."

The Council concludes: "These things being defined as above, *the most religious prince assenting*, it hath seemed good that the things so ordered should by none of us be tampered with, and by all, by healthful counsel, preserved, which, as being for the good of the Church and our soul, we corroborate by our subscription that they may abide."

The King confirms it thus:—

<sup>8</sup> Canones. ed. Bruns. Mansi has a various reading, "dicente."

“Let the chapters which, agreeably to our meaning and conformably to discipline, have been framed by the present synod, be observed and remain in all authority, whether as to Clergy or laymen, or any other.—All these ecclesiastical Constitutions of which we have given a summary, as they are contained more fully in the Canon, we sanction to remain firm for ever.—I, Flavius Recaredus, King, confirming, have subscribed this deliberation, which we have defined with the holy synod.” Then subscribe Metropolitans, Bishops, and the legates of absent Bishops, sixty-two in number<sup>9</sup>.

In the *fifth Council of Toledo*<sup>1</sup>, A.D. 636, the Fathers rehearse that the King Chintila [Suintilla] present in the Council, “premised, by Divine inspiration, this institution, which, at his command, we sanction by our decree also :”

CAN. 1.—“That in the whole kingdom given to him by God, this special religious observance should be kept at all times ; that from December 13th litanies should every where be for three days performed in yearly succession, and forgiveness of sins be sought by tears ; that if the Lord’s day intervened, they be celebrated in the following week ; that, since iniquity abounding and love failing, new crimes are practised, this new custom may grow up, which may be our cleansing before the eyes of the Almighty.”

<sup>9</sup> Hard. iii. 484.

<sup>1</sup> Hard. 600—608.

In the law, the King rehearses it as done "at the instance of his exhortation." He decrees accordingly, "confirming whatsoever was defined in that same synod, that on the said three days, according to what those most reverend men have decreed, every Christian soul should make humble amends to the Lord of heaven, and for the crimes wherein we are daily entangled through the revenge of the devil, we may by tears and fasting pay a worthy service."

He confirms also the *sixth Council*, A.D. 638.

In the *eighth Council of Toledo*, A.D. 653, King Receswind reads in a "tome," "what I had decreed to intimate to you of the ensuing business, for which I thought good to invite this meeting of your congregation," and he implores them to "give speedy effect to what he therein commended to them to be fulfilled." He specifies one case, and then adds, "We, after this, set in order the subjects of the ensuing business, and subjoin that you should give them the like attention."

In the *twelfth Council of Toledo*, A.D. 681, and the *thirteenth*, A.D. 683, King Erwiga, and in the *fifteenth, sixteenth, and seventeenth*, (A.D. 688, 693, 694,) King Egiza, propose out of "tomes" some subjects for enactment of the Council; mostly political, or against the Jews; yet in the sixteenth, he lays before them a plan for repairing churches, against pluralities, and for union of very small parishes. He proposes that any Bishop, negligent in removing



heathen superstitions, be suspended for a year, and the king have the power to elect another in his room. In the seventeenth, he sets before them an almost inconceivable corruption, that priests were induced to say, maliciously, for living persons, the mass for the departed, in hope that, it being said for them as dead, they might thereby die. He proposes, also, that there should be three Rogation-days in every month. The Councils enacted what the king suggested<sup>2</sup>, and the king confirmed it.

The *fourteenth Council of Toledo* was summoned by the king at the suggestion "of the Bishop of Rome, in order that the decrees of the sixth General Council, against the Monothelites, which he had sent, might stand fast, supported by the authority of the Spanish Bishops also, and might be by them promulgated to all in Spain."

*XV. The decrees of Councils have been in matters of discipline even submitted to the Civil Power for revision.*

In A.D. 813, "at the command<sup>3</sup> [*jussu*] of Charlemagne, Councils were held by Bishops through all Gaul, for the correction of the condition of the Church." They were held at Arles, Mayence, Rheims, Tours, Chalons. At Mayence, "the Bishops sought the remedies of the evil, in Holy Scripture and the Canons." Yet the result was submitted to Charlemagne for correction. The Preface of the

<sup>2</sup> Can. 5, 6.

<sup>3</sup> Eginhard, A.D. 813. De Marca, 6. 25. 6.

*Council of Mayence* says: — “But concerning all these things we greatly need your help, and sound teaching, which may constantly admonish us, and kindly instruct us, in order that what we have touched on under a few capitula, may be confirmed by your authority, if indeed your Piety shall so judge meet; and whatever therein is found worthy of amendment, your Magnificent imperial Dignity may command to amend.”

The *Council of Arles* says:—

“Those things which we have seen to be worthy of amendment, we have noted very briefly, and have determined to present them to the Lord Emperor, praying his Clemency, that, if there be ought too little, it may be supplied by his prudence; if there be ought against right reason, it may be amended by his judgment; if ought set down with reason, it may be perfected by his help, the Divine Mercy aiding.”

The *Councils of Chalons and Tours* use the same language<sup>4</sup>:—

“The Canons which were made in each Synod were collated before the Emperor in the *General Council at Aix*, where they were confirmed so as to have the force of law.”

XVI. “*Extraordinary*<sup>5</sup> *Provincial Councils were,*

<sup>4</sup> “The Councils of Tours and Arles at the end of the Canons, those of Mayence and Chalons in the Preface.” (De Marca.)

<sup>5</sup> De Marca, 6. 17. 4. (who gives the following instances of French Councils,) says more broadly, “It is certain that all, except the ordinary synods, were called together at the command

*in the sixth and following centuries, mostly convoked by the King."*

Council of *Agde*, A.D. 506:—"When the holy synod had met in the city of Agde, in the Name of the Lord, by *permission* of our most glorious Lord, the most magnificent and pious King."

Council of *Orleans*, *i.* A.D. 511:—"To their Lord, son of the Catholic Church, the most glorious King Clovis, all the priests whom you have *commanded* to come to the Council."

Council of *Orleans*, *ii.* A.D. 533:—"When, by the help of God, we had met in the city of Orleans, by the *direction* of the most glorious Kings to consider of the observation of the Catholic law."

Council of *Clermont*, *i.* A.D. 535:—"When the holy synod had met at Clermont in the name of the Lord, the Holy Spirit gathering [*congregante*], our most glorious and pious Lord King Theodebert *consenting*."

Council of *Orleans*, *v.* A.D. 549:—"The most glorious King Childebert, for the love of the sacred faith and the well-being of religion, *gathered* the priests of the Lord together in the city of Orleans."

Council of *Paris*, *ii.* A.D. 555:—"When we had of the Emperors, *i. e.* Œcumenical Synods, Councils of each Diocese, and extraordinary, composed of various Dioceses, although not Œcumenical." He instances in early times the Councils of Arles, Aquileia. But, in France, there is no notice of the Prince in the eight Councils of the 5th century, nor in Spain, in the nine recorded before the Council of Braga 1, A.D. 563.

come to Paris at the *invitation* of our Lord, the most glorious King Childebert.”

Council of *Tours*, *ii.*<sup>6</sup> A.D. 567:—“Wherefore by the favour of Christ, the Council having met for deliberation in the city of Tours, with the consent and approval of the most glorious King Charibert.”

Council of *Lyons*, *ii.*<sup>7</sup> A.D. 567:—“King Gunthram *commanded* the synod to be gathered at Lyons<sup>8</sup>.”

Council of *Maçon*, *i.* A.D. 581:—Says they “met at the *summons* [*evocatione*<sup>9</sup>] of the most glorious Lord Gunthram.”

Council of *Valence*, A.D. 584:—“Being met by *command* [*jussione*] of the most glorious King Gunthram.”

Council of *Maçon*, *ii.* A.D. 585, at which nine Metropolitans were present, representing far the

<sup>6</sup> De Marca observes (6. 17. 7.) that having been originally summoned by King Clovis to Orleans, they say of the king then reigning, only, “Wherefore, under Christ as Guide [*Auspice*], we united at Tours, the Council agreeing, according to the permission [*conniventia*] of the most glorious Lord King Charibert, *assenting*” [*annuentis*]. Charibert was, at one time, under excommunication. “*Conniventia*” is used either for “*pactum*” or “*consensus*.” Du Cange.

<sup>7</sup> “The Councils of Orleans, *iii.* *iv.*, Paris, *iii.*, Lyons, *ii.*, omit mention of the king, although of the last, Gregory of Tours says (v. 20), that King Gunthram *summoned* it.” De Marca, 6. 18. 6.

<sup>8</sup> Greg. Turon. Hist. v. 28.

<sup>9</sup> The word “*evocatio*” was used of the summons of the Metropolitan (Conc. Orleans *iii.*) and by St. Leo of the summons of the Exarch of Illyricum.



greater part of France with Savoy, was also assembled “by the *command* of King Gunthram.” It gives directions (Can. xx.) for the convening of a national council every third year. “To fulfil this be the care of the Metropolitan Bishop of Lyons, together with the ordinance [*dispositio* i. q. *edictum*] of our magnificent prince, first defining a central place whereto all the Bishops may be gathered cheerfully, without toil.”

Council of *Verdun*, A.D. 590:—“The King summoned all the Bishops to his examination” (*i. e.* to judge in an accusation instituted against Egidius, Archbishop of Rheims), “directing letters to all the Bishops of his kingdom— they could not resist the king’s command<sup>1</sup>.”

The Council of *Paris*, v. A.D. 615:—Says in the like way that they met “at the *summons* [*evocatione*] of the most glorious Prince the Lord King Clothaire.”

The Council of *Chalons*, A.D. 650, (consisting of the Bishops of the Burgundians and Neustria) met “at the common will of all, and at the *summons* or *ordinance* [*evocatione* vel *ordinatione*] of the most glorious King Clovis [ii.] who (they say in their synodal epistle) *commanded* them,” &c.

St. Gregory the Great writes to Queen Brunehild, “Saluting your excellence with fatherly affection, we request that you would appease God by

<sup>1</sup> Greg. Tur. x. 19.

amending this pravity. And that it may not hereafter occur, let the royal *command* ordain that a synod should be held." (Ep. vii. 113.) And to Theodoric and Theodebert:—"In which matter that ye may be able to offer a great gift to the Almighty Lord, *command* a synod to be gathered." (Ep. vii. 114.) And to Theodoric, King of the Burgundians, "With renewed exhortation we entreat you, for your great reward, that you will *command* a synod to be gathered."

Sigebert, King of Austrasia (about A.D. 650) begs Desiderius, Bishop of Cahors, (not in his kingdom,) not to attend a council which had been summoned by his Metropolitan (the Bishop of Bourges), without the king's knowledge:—"Although we wish to maintain the statutes of the canons and Ecclesiastical rules, even as did our forefathers, in the Name of God, yet since it was not before brought to our knowledge, we have thus determined with our nobles, that without our knowledge no council be held in our kingdom, nor on the said Sept. 1 shall there be any meeting of Bishops, of those who are known to belong to our kingdom. But afterwards, at a fitting time, if it be announced to us beforehand, whether the convention be for the state of the Church, or for any reasonable cause whatever, we refuse it not, so that, as we said, it be first brought to our knowledge."

In *Spain*, the Councils of *Toledo*, 2—8, 10, 12, 13, 15—17 (A.D. 531, 589—692), the three Councils

of *Braga* (A.D. 563, 572, 675), *Narbonne* (A.D. 589), the second and third of *Saragossa* (A.D. 592, 691), *Merida* (A.D. 666) express in different ways that they were gathered at the "command," "desire," "wish," "exhortation<sup>2</sup>," &c. of the different kings, Amalaric, Recarede, Sisenand, Suintilla, Chindaswind, Recheswind, Wamba, Erwiga, Egiza. But it appears distinctly from the *tenth Council of Toledo*, that this sort of Council could not meet without a summons from the king. They complain, "A long series of years, in which the light of Councils had been withdrawn, had not so much increased vices, as infused into unoccupied minds ignorance, the mother of all vices. We saw how, through the boiling cauldron of the Babylonian confusion, either the times of Councils were removed, or the Priests of the Lord entangled in relaxed manners. For they followed the allurements of the scarlet harlot; because the *discipline of Ecclesiastical assemblies was not at hand*; nor was there any to correct those astray since the word of God was banished, and because there was no [royal] *precept* [præceptio] for gathering Bishops together, life grew daily worse."

XVII. *Princes did not make laws on ecclesiastical discipline, but confirmed them, and, in details, enlarged them.*

<sup>2</sup> They use the various words, imperio, jussu, nutu, hortamentis, studio, voto, favente, poitulante, mandasset, permissu, præcepto, ordinatione.

“The <sup>3</sup>Emperor Marcian wished that monks should be under obedience to Bishops, monasteries be built with the consent of the Bishop, Clergy be removed from secular business, and diligently minister in the Churches assigned to them. He submitted the rules which he wished to introduce on these heads before the Council of Chalcedon, in these words: ‘There <sup>4</sup>are certain capitula which we have kept for you out of reverence for your Holiness, thinking it meet that these things should be set down canonically by you in a Synod, rather than that they should be enacted by our laws.’”

Whence De Marca observes, “As to rites, ceremonies, sacraments, the censure, function, conditions, and discipline of the Clergy, Canons were published most frequently by Councils, and decrees by Roman Pontiffs, as being a subject matter belonging to them, and scarcely any constitution of Princes can be ad-duced, passed, in these matters, by the mere command of the secular power. We see that herein the public laws followed, not preceded.”

And more at length as to the civil law. Henry VIII., we shall see, wished the procedure of Justinian to be a pattern for Christian kings. The English Church, I doubt not, would thankfully accept it. “Those <sup>5</sup>constitutions of Justinian may be divided into two heads, as they relate to ecclesiastical persons or things. Those which were passed about the

<sup>3</sup> De Marca, ii. 7. 7.

<sup>4</sup> Conc. Chalc. Act. 6. Hard. ii. 487.

<sup>5</sup> De Marca, xi. ii. 3.



Clergy, which relate to the rights, privileges, and offices of Patriarchs, Metropolitans, and other Bishops, to ordinations, administration of judgments, and ecclesiastical business, the functions of the whole Clergy and their attendance in the Churches, the manners and condition of those to be admitted among the Clergy, or the lives of monks and nuns—these things are all drawn from the Canons, or from received custom, as Justinian himself professes, who in many places writes expressly, that he decides all these things according to the Canons <sup>6</sup>.”

“As to the election indeed of those to be consecrated [Bishops], he supplied, in the way of explanation, many things not contained in the Canons <sup>7</sup>. For he first ordered that three persons should be chosen by the Clergy and people, the Holy Gospels being placed in view, and that the decree of the election should be sent to the Metropolitan, who should give his suffrage to one of the three elected. Then he prescribes the order of judgment to be followed, if any contention should arise as to the person of the elected, any fault in the election, the crime of simony, and the like. In many other articles also, it is his way to settle the *mode* of doing a thing and the *order* of judgments.

<sup>6</sup> Novel. 6. c. 1. “We enact, then, following *throughout* (ὁὰ πάντων) the holy canons.” 123. c. 36. “We command, according to the canons relating to Monks ;” and the like words occur, *passim*.—De Marca.

<sup>7</sup> Nov. 123. c. 1.

“As to ecclesiastical *things*, he is every where careful as to their conservation. He appoints an Œconomus according to the Canons of Chalcedon, prescribes the mode of administration, of increasing revenues and giving accounts ; restrains the number of the Clergy of the Church of Constantinople ; and settles many things as to inheritable leases on fixed rents, and hindering the alienation of goods. All these things as to *property*, he professes to decide, not in consequence of the Canons, but in his own right.”

“His Constitutions then were received with the greatest approbation by the Patriarchs, to whom they were sent, that they might publish them in churches, and require the Metropolitans to use them. After the death of Justinian, they were commonly used in ecclesiastical judgments, in that what was in general terms decreed by the Canons, was contained in detail in these Constitutions, the mode moreover of carrying them into effect being prescribed, and the method of judgments. So then ecclesiastical jurisdiction greatly gained by them, in terminating causes more readily. Whence the synodical epistle of Pope Agatho and the Roman synod speaks of Justinian as having by ‘his<sup>8</sup> virtue and piety brought every thing into better order ;’ and though not formally received, ‘Hincmar<sup>9</sup> and Ivo say, that his Constitutions are approved and observed by the Church.’”

<sup>8</sup> Act. iv. Syn. vi. C. P. iii. Ep. Syn. Agath. ii. p. 295. Mansi.

<sup>9</sup> De Marca, ii. 11. 5. quoting also Gregory the Great. Hinc-

“Joannes Scholasticus brought together the Constitutions of Justinian and the collection of Canons by Theodoret. He says in his Preface<sup>10</sup>, ‘These extracts which I have now compared with the holy Canons of the holy and blessed Apostles, and with those of the holy Fathers who, in each synod, followed their steps, I transcribed from the Divine ‘*Novellæ Constitutiones*’ put out by Justinian, now in the Heavenly inheritance, which not only follow the Canons of our orthodox fathers, but also give them the authority of the Imperial power, with additions lawful and well-pleasing to God, which, after the example of God, provide what is for the benefit of the whole human race.”

There is, however, at least, one remarkable exception, in which, as he alleges, by the Canons, he alters on his own authority, the *mode* of celebrating the Divine Service. He sets forth<sup>1</sup>, that the Emperor is bound “to take care as to the keeping of the sacred Canons and divine laws;” that appeals had been made to him stating that some were found even among Bishops who did not remember or know even the prayer of the Sacred Oblation, or of Holy Baptism. He states<sup>2</sup>, “that the cause of these abuses was the neglect of holding synods, and quotes St.

mar (Opusc. c. 17.) “The laws promulgated by the Emperor Justinian, which the Church approves, decree, &c.” Ivó. Ep. 180. “The Institutes of the Novels which the Roman Church recommends and observes.”

<sup>10</sup> Biblioth. Jur. Canon. t. ii. p. 604.

<sup>1</sup> Præf. Nov. 137.

<sup>2</sup> c. i.

Gregory Theol.<sup>3</sup> as speaking of the Canons of Paul and the rules which he laid down as to Bishops and Presbyters;" and then says<sup>4</sup>, "We command that all Bishops and Presbyters should make the Divine Oblation and the prayer at Holy Baptism, not in secret, but in that voice which may be heard by the most faithful people, that thence the minds of the hearers may be borne to greater devotion, &c. For so the Apostle teacheth." 1 Cor. xiv. 16.

The case was extreme; but the remedy, his own discretion, according to his sense of Holy Scripture, not through any Ecclesiastical authority, is certainly irregular.

"King *Clothaire*<sup>5</sup> and *Pepin* promulgated the ancient Canons through the whole kingdom. 'We have determined,' says *Clothaire*<sup>6</sup>, 'that the statutes of the Canons be maintained in all things, and that this, neglected in times past, should be observed henceforth perpetually.' After the example of Justinian, they prescribed these rules in their own words, saying expressly that they derived them from the Canons. 'We have decreed according to the holy Canons,' says Carloman in Synod of Lestines<sup>7</sup>, A.D. 743.

"But above all, *Charlemagne* laboured in restoring the fallen discipline, not only by aid of Synods, many

<sup>3</sup> Apol. Magn.

<sup>4</sup> c. 6.

<sup>5</sup> De Marca, ii. 12. 4. 5.

<sup>6</sup> Edict. Clothar. 1. A.D. 615. Hard. iii. 554 C.

<sup>7</sup> Ibid. 1922.



of which he assembled for this purpose, but also by his edicts promulgated by the advice of his Council. In the Capitulare, which this prince published in the Palace at Aix, A. D. 789 (called thence Aquisgranense), he admonishes Bishops, Priests, and laymen of their duty, transcribing the very words of the Canons and decrees<sup>8</sup>. He addressed it to ‘Bishops, Priests, Monks, all.’ This edict was passed not by advice of any Synod, but of the Council formed of Bishops and nobles. ‘Considering,’ he says, ‘together with the Bishops and our Counsellors.’ He declares his object to be, as ‘the devoted defender and humble helper of the holy Church of God,’ to join his own diligence with the labours of the Bishops, that the sanctions of the Fathers and of the Canons, should not be plucked up. To this end, he extracts certain chapters from the Canons, the execution whereof he urgeth; and he sends his legates who, together with the Bishops, may, by royal authority, correct what is to be corrected. This Capitulare, extending to 82 chapters, chiefly embraces what relates to ordinations, excommunications, the offices of Bishops and Clergy, the order of judgments, and the rest of ecclesiastical discipline, so that it may be called a sort of abridgment of Canon Law.”

*Lothaire* adopted this into his Constitution, the Capitulare Lotharii, incorporating the capitulars of Charlemagne and Louis, and added this sanction:—

<sup>8</sup> Capit. Aquisgran. Præf. Hard. iv. 824.

‘It has seemed good to us that these capitula which we have extracted from those of our grandfather Charles of holy memory, and our Lord Louis the Emperor, should be held and kept as a law by all the lieges of the holy Church of God or of ourselves in the kingdom of Italy.’ He annexes a fine to the contempt of it.

Pope Leo IV. bound himself<sup>9</sup> to observe ‘those Capitula and precepts of Lothaire and his predecessors in all things.’ The Council of Meaux, A.D. 845, begged that the Capitula of Charles should be observed throughout France<sup>1</sup>.

*XVIII. Kings, as Guardians of the Canons, have with the approbation of the Church, taken upon them the enforcement of Canons, the admonition of Bishops, and have delegated that authority.*

No weight would attach to any work of Justinian, from his religious or moral character; but he spent much time in conference with Bishops, and his work had the subsequent sanction of the Church.

Justinian then lays down, that Princes are guardians of the Canon law, and consequently may punish the breach of the Canons by civil penalties.

“If<sup>2</sup>, for the security of our subjects, we take earnest heed that the civil laws, over which God, in his loving-kindness towards man, has given us the power, should be observed by all, how much more earnest zeal ought we to use as to the guardianship

<sup>9</sup> C. de Capitulis. Dist. 10. ap. Gratian.

<sup>1</sup> Hard. iv. 1500.

<sup>2</sup> Nov. 137.

of the sacred Canons and Divine laws which are enacted for the salvation of our souls." . . . "If the common laws do not permit the offences of laymen to remain uninvestigated and unrevenge, how shall we allow what have been formed by the Holy Apostles and fathers, as rules in the matter of man's salvation, to be neglected?"

"We<sup>3</sup> are the guardians only and vindicators of antiquity. Nor will either the Church's censure or ours be wanting towards those, who, either out of ambitious pride, or through surreptitious petitions, shall be proved to have violated antiquity. For it is a wrong against the Godhead, when any feareth not to despise and violate the constitutions of the holy fathers."

"The guardianship of the Canons," De Marca<sup>4</sup> says, "was carried out by, (1) delegating magistrates to hinder any breach of them; (2) punishing offenders; (3) rescinding, at times, things done against the Canons."

"In the 6th Novella, on the Ordination of Bishops and Clerks, Justinian gives its execution to the Patriarchs, Metropolitans, and Bishops. But besides, he sends that constitution to John, the Prætorian Prefect of the East, and Dominicus, Prætorian Prefect of Illyricum.

"'Let your Highness,' he says, 'knowing this, and all who shall ever occupy your place, be diligent to

<sup>3</sup> Epist. ad Dacian. Metrop. Byzac. De M. ii. 11. 2.

<sup>4</sup> iv. 1. 4.

maintain this. And if any such offence shall be denounced, let him prohibit it, especially whatever is forbidden as to the ordination of persons liable to civil services<sup>5</sup>. Let him also report it to us that a fitting punishment may be laid upon them. Send injunctions also to the most illustrious judges of the Provinces, that they too, inspecting what is done, may not permit any thing to be done at variance with this, enacted by us<sup>6</sup>.”

Magistrates are to report, the Emperor to punish, offences against the Canons.

“The<sup>7</sup> 123rd Novel. which contains a compendium of the Canon law, is addressed to Peter, Prætorian Prefect, that he ‘should see that what our Serene Highness has sanctioned in this present law, to last for ever, should be kept in all things.’ Expulsion from the sacerdotal office is a frequent punishment both for Bishops and Clerks, that the Bishops be thrust out, and others, better, put in their stead, and that by the force of the present [*i. e.* the Civil] law. ‘This custom,’ says De Marca<sup>8</sup>, ‘he had not brought into the Church, but had derived from his predeces-

<sup>5</sup> This was forbidden by the Church. See Bingham, 4. 4. 4. and 5. 3. 15.

<sup>6</sup> Justinian proceeds to put a fine on this.

<sup>7</sup> Nov. 123. c. 9. De Marca (4. 10. 8.) instances that a Bishop who should ordain one, contrary to the form prescribed by the canons, should be suspended for a year; or, again, if he ordained one, uncleared of any crime laid against him. [but this was probably the canonical punishment. See Bingham, 17. 5. 35.]

<sup>8</sup> 4. 18. 2.



sors, whose Constitutions often threaten the Clergy with expulsion, banishment, and fines.' Constantine, in summoning Bishops to the Council of Tyre, had threatened, 'If any, as I deem not, purposing still to evade our mandate, refuse to come to the Council, one shall be sent hence, who, casting him forth, by virtue of the royal mandate, shall teach him that it is not fitting to resist the decision of the Emperor, issued in behalf of the truth<sup>9</sup>.'"

Marianus<sup>1</sup>, in a treatise approved in the Council of Constantinople under Menas, declared that Justinian had the right to expel Anthimus, who, being a Bishop of Trapezus, had been intruded into the see of Constantinople. Theodosius deposed Irenæus, made Bishop of Tyre, "after a second marriage, against the Apostles' Canons," A.D. 449. Zeno deposed Peter Moggus, who had been intruded into the see of Alexandria, his predecessor being alive, "as being made Bishop against the laws of the Church."

*Charlemagne* :—"We<sup>2</sup> have subjoined certain capitula out of the Canonical Institutes which we thought more necessary for you. Let not any one, I beseech you, think presumptuous this admonition of piety, whereby we have laboured to correct errors, to cut off superfluities, to condense what is right; but rather let him receive it with a kindly and loving mind. For we

<sup>9</sup> Ap. Theodoret. H. E. i. 29.

<sup>1</sup> From De Marca, 4. 4. 6.

<sup>2</sup> Capit. Aquisgran. Præf. De Marca, 2. 12. 4.

read in the Book of Kings, how the holy Josias laboured to bring back to the worship of the true God the Kingdom committed to him of God, visiting, correcting, admonishing. Not that I would compare myself to his holiness, but that we ought always, in all things, to follow the example of the saints.’”

“Towards the end of the Capitular, he uses the word *enjoin*, when he admonishes the Bishops to recall the faithful people, by their preaching, from the commission of crime.”

“He earnestly enjoins the Bishops, ‘that with great zeal and devotion they would exhort and compel the flock committed to them to keep, with firm faith and unwearied perseverance, within the rules of the fathers. In which zealous work let your holiness know assuredly that our diligence will *co-operate* with you. Wherefore we have sent unto you our *Missi*, who, by the authority of our name may, together with you, correct what is to be corrected.’

“The office of the *Missi* extended so far<sup>3</sup>, that, ‘if a Bishop should do any thing negligently in his ministry, he should be corrected through their admonition.’”

*Louis*<sup>4</sup>, his son, addresses a general admonition to both Bishops and Counts.

“Since it has pleased Divine Providence to set our poor self to take care of His Holy Church and this Kingdom, we wish that both our self and our

<sup>3</sup> Capitulare Lud. 2. Præf. c. 2, 3. A.D. 823. De Marca, 4. 7. 6.

<sup>4</sup> Harduin. iv. 844 B.

sons and associates may strive to this end, that three chief points may be especially maintained both by us and by you, God helping us in the administration of this realm, that is, that the defence and exaltation, or fitting honour of God's Holy Church, and of His servants may continue, and that peace and justice may be maintained in the whole universal body of our people. We desire then, to be especially studious of these things, and in all the Courts which, God helping us, we shall hold with you, to admonish you, as we are bounden."

"Although<sup>5</sup> the sum of this ministry rests in our person, yet it is known to be so divided in parts, by Divine authority and human appointment, that each of you in his place and order is known to have a part in our ministry. Whence it appears that I ought to be the monitor of you all, and ye all ought to be helpers of me. For neither are we ignorant what belongs to each of you, in the portion committed to him; and, therefore, I cannot omit admonishing each according to his order."

Then he admonishes the Bishops to be careful in *their* ministry, and adds:—

"That<sup>6</sup> in what pertains to your ministry, ye may be true helpers in the administration of the ministry committed to us, so that in the Judgment we may not deserve to be condemned for your and our negligence, but rather be rewarded for the good zeal of both."

<sup>5</sup> Ibid. 825. E.

<sup>6</sup> c. 4.

“He observes this difference between Bishops and Counts, that to Bishops the care of their ministry had been committed by God, but to the Counts by the Royal mandate.”

“No one then ought to wonder,” subjoins De Marca, “that the Kings of the Franks gave themselves so diligently to Ecclesiastical affairs, as thinking that they belonged to their ministry; viz., to be *monitors of the Bishops*, that they so should perform their ministry according to the Canons, and therein be helpers of the royal ministry. But herein, effects followed words, and punishment of the contumacious.

“The ‘*Missi Dominici*,’ men of highest order and prudence, chosen by the Prince out of each order, inquired diligently what Bishops, Abbots, Counts, and Abbesses did, district by district; and, wherever it was necessary, inquired into causes, as well what belonged to the Crown as to the Churches of God, to widows also, orphans and all generally.”

“The employment of the ‘*Missi Dominici*’ (who together with the Bishops watched over the execution of the Canons in country parishes and monasteries, or informed the King of contempts, that he might correct things done amiss) obviated those suits which now are instituted as to the abuse of the canons and of authority. Offences against the canons through negligence they corrected by their own authority; or, in graver matters, referred them to the King.”



Charles the Bald, in the Capitulare given at Thoulouse, A.D. 845, c. 8<sup>7</sup>, warns the Bishops, against whom a charge of vexation had been brought by the Presbyters of the Septimania<sup>9</sup>, "that they do not take occasion, as having authority over the Canons, to resist or neglect these constitutions of our Excellency, but rather should take care to understand the Canons as they ought to be understood, and to observe them in all things. For if they do otherwise, they shall be taught in all ways by a synodal decision, and our royal authority, both how the Canons direct the tithes of the faithful to be dealt with, and how they are to be understood and observed with the decree of our Clemency."

There was further an office<sup>8</sup> in the palace, "the<sup>10</sup> Apocrisarius, or warden of the palace, who had the special care of entertaining all ecclesiastical matters or ministers of the Church, as the mayor of the palace entertained all secular causes or judgments; so that neither Ecclesiastics nor laymen should need to disquiet the King's Highness, without consulting them, until they should see, if need were, that the cause ought to come before the King." "The<sup>1</sup> Apocrisarius had the care of all Ecclesiastical religion or order, and moreover of any canonical or monastic

<sup>7</sup> Hard. iv. 1460. C.

<sup>8</sup> Another name for the Provincia Narbonensis Prima (Hoffmann). This contained ten Bishoprics in Languedoc and Roussillon. See Bingham, 9. 6. 5.

<sup>9</sup> De Marca, 4. 7. 3.

<sup>10</sup> Hincmar, Ep. 14. c. 19. ib.

<sup>1</sup> Ib. c. 20.

dispute, or whatsoever came to the palace for Ecclesiastical needs, and those only of outward things came to the King, which could not be fully settled without him." "The Arch-chaplain," continues De Marca, "gave judgment in the assembly of Bishops and nobles, unless the weightiness of the cause required the King's presence." "Whatever<sup>2</sup> place he himself had in the Church, he always had the first place above Archbishops and Bishops, even in Synods. Ebrouin, Bishop of Poitiers, Arch-chaplain in the palace of Charles the Bald, presided at the Council of Vernon, A.D. 844; where, besides others, the Archbishop of Sens was present. On the same ground Grimoald, Abbot of St. Gall, is set before Solomon and Theodoric, Bishops, in the *Acta de Indulgentia Ludovici*." "An instance of the authority of the Arch-chaplain appears in the epistle of the Church of Sens to Hilduin, in which they give him thanks, not for obtaining only from the Prince, but for the *granting* a second election to this Church. When the person elected the second time was not accepted by the 'Missi Dominici,' the matter was referred to Hilduin, whom they pray to delay judgment, until, in their presence, *he* should either *accept or reject* him whom they had elected. They entitle him 'one set over sacred matters by God,' (*sacris negotiis a Deo prælatus*.) The Arch-chaplain, besides, was always present in all consultations by

<sup>2</sup> Addit. Baluz. ib.

the Council, which was partly clerical, partly lay, on any matter public or private.”

This, however, required at least the correction of yearly Provincial Councils. Without them discipline became both inadequate and secular. The Council of Paris, A.D. 829, petitioned the King for the restoration of those Councils.

CAN. 26<sup>3</sup>.—“Because if these Councils should be celebrated once in each year, in every province, both Ecclesiastical dignity will retain the strength of its order, and the shamelessness of certain clerks who, trampling on the authority of the canons, trouble the Imperial ears, will cease; and divers wickednesses, which now lurk undiscovered, shall lie hid no longer; and many other things, which hitherto have proceeded in a way foreign to that which Ecclesiastical discipline teacheth, shall, by the help of the Lord, maintain their order.”

*St. Louis*, A.D. 1269, shortly before his death, uses language implying the absence of any authority above his own in his realm, which the Church has been so severely censured for allowing in Henry VIII. It is the Preface to his Pragmatic Sanction, in which, says De Marca<sup>4</sup>, he decrees, “that the rights of Bishops and Patrons should be most fully maintained; that all the benefices and ecclesiastical offices of the realm should be enforced according to the

<sup>3</sup> 11 ap. Hard. t. iv. p. 1356.

<sup>4</sup> 2. 12. 8.

rules of common law and the Councils, and the institutes of the ancient fathers; and no place be left to the Court of Rome for exacting money from the Gallican Church, and that the liberties and privileges bestowed upon the Church by kings of the Franks may remain unimpaired.”

“ Louis by the grace of God, king of the French, to preserve the record hereof for ever. For the healthful and tranquil state of the Church of our realm, and for the increase of the worship of God and the salvation of the souls of Christ’s faithful, and that we may obtain the grace and help of Almighty God, *to whose sole authority and protection our kingdom hath ever been subject, and we now will to be*, we establish and order what follows, by this well-advised decree, to be valid for ever.”

One would not take a king’s advocate in Parliament, as an Ecclesiastical authority; but the speech of J. J. de Ursinés, A.D. 1406, reported by his son, Archbishop of Rheims, and approved by De Marca<sup>5</sup>, Archbishop of Paris, is not far from the first assumption of Henry VIII. “He showed two things: 1st. the power of the king of France, who is the right arm of the Church, and that it is both lawful and right for him, when requested so to do, to assemble the Ecclesiastical persons of his kingdom, touching the matter of the Church, in order to hold a Council, and therein to preside as chief, or even to do the same, without request of any one, if it

<sup>5</sup> 6. 34. 2.



seemeth him good. As in the present case when he had been requested by the University, and by no Prelates or Ecclesiastical persons. Or, without application of any one at all, he might, if he deemed it expedient, hold the same, and therein finally decide, and enforce what should be decided and advised in this Council."

Equally strong, as to the Executive power of the king, is our Saxon king Edgar, when carrying out the plan of St. Dunstan and two other Bishops (and it would seem of those three Bishops only) in displacing the secular clergy from monasteries and cathedrals.

"It is <sup>6</sup> part of my charge, both to provide what is needful, and to consult for the well-being, quiet, and peace of the ministers of the Church, the flocks of monks, the choirs of Virgins. Of all these it appertaineth to us<sup>7</sup> to inquire into the lives, whether they live continently, whether soberly to those who are without, whether they are diligent in the Divine offices, assiduous in teach-

<sup>6</sup> Rieval de Geneal. Reg. Angl. p. 360. See Collier, i. 189. Spelman i. 477. Rieval died A.D. 1166.

<sup>7</sup> A correction, "ad vos pertinet" for "ad nos" in many MSS., only illustrates the strength of this statement, which the corrector accordingly changed, transferring to the Bishops what king Edgar claimed to himself. "Ad nos pertinet" is the continuation of "meæ solitudinis est." "Nos" and "vos" are frequently exchanged in MSS. King Henry III., using Edgar's words, quotes them "ad nos" in "William Rishanger's unprinted Chronicle" quoted by Usher. See Wilkins, i. 246.

ing the people, moderate in food, quiet in habit, discreet in judgment. Be it spoken without offence, reverend fathers, had ye been careful in examining these things, such horrible and abominable things would not have come to our ears about the Clergy." Then besides moral offences, the king speaks of their mode of performing Divine Service. "Besides, in the Divine offices what negligence, when they scarce vouchsafe to be present at the sacred vigils; when at the sacred service of the Mass, they seem to be congregated, to play and to smile, rather than to sing." He rehearses other things forbidden by the Canons, as the use of dice, and dancing, and that till midnight. "Thus the patrimonies of kings, the alms of the poor, yea (what is more) the price of that Precious Blood is wasted. Was it for this our fathers exhausted their treasures?—It is time to rise against those who have broken the law of God. I have the sword of Constantine, ye of Peter. Let us join hands, unite 'sword to sword,' that the leprous may be cast out of the camp, the sanctuary of the Lord be cleansed.—Words are set at naught; we must come to blows; the royal power shall not fail you; thou [Dunstan] hast with thee the venerable fathers, Athelwald, Bishop of Winchester, Oswald, Bishop of Worcester. To you *I commit the matter*; that both by Episcopal censure and Royal authority, ill livers may be cast out of the Churches, and others, living by rule, be brought in."

The speech is given by a grave historian. Edgar's

words in his Charter to the Monks of Winchester, (countersigned by St. Dunstan, and other Bishops and Abbots) if less vehement, are stronger.

“By<sup>s</sup> my persuasions, inviting some to good, compelling some by terror, building up what is good to glory, I, as I could, the Lord doing it, dispersed things evil. For it is written, I remember, by Jeremy the Prophet, ‘I have set thee over the nations and over the kingdoms, to root out, and to pull down, and to destroy, and to throw down, to build, and to plant.’ Exhorted then by such teachers, by whom the Lord mournfully admonishes us through the Prophet, I, by the favour of Christ, doing on earth what He Himself did justly in heaven, rooting out of the vineyard of the Lord the defilements of sins, have, as a good husbandman, planted the seeds of virtues. Fearing lest I should incur eternal misery, if, having received the power, I did not what He, who doth all things which He willeth in Heaven and in earth, the Righteous Judge, hath by example shown, I, the *Vicar of Christ*, expelled the bands of vicious Canons from different Monasteries of our realm. Thus, touched by the breath of the Holy Spirit, I, cleansing the place of the Lord, &c.” He pronounces a very solemn anathema on those who should expel the monks from the monasteries, which, “cleansing from the defilement of

<sup>s</sup> Monach. Hyd. Leges ab Edgaro datæ. c. vii.—ix. 11. in Spelman, p. 437-9.

sins, I, the devil being vanquished, have gained for our Lord Jesus Christ."

Something of the same language occurs in the laws of Ethelred<sup>9</sup>. "He that holds an outlaw of God in his power over the term that the king may have appointed, acts, at peril of himself and all his property, against *Christ's vicegerent*, who preserves and sways our Christianity and kingdom as long as God grants it."

The title of "Vicar of Christ," with some "rule" of the Church, is claimed by S. Edward the Confessor in his ecclesiastical laws<sup>1</sup>; "The King, who

<sup>9</sup> ix. 42. Thorpe, i. p. 351.

<sup>1</sup> Leg. Eccl. Edw. Reg. et Conf. c. 15. Wilkins T. i. p. 622. "Rex autem, qui Vicarius Summi Regis est, ad hoc est constitutus, ut regnum terrenum, et populum Domini, et super omnia sanctam veneretur ecclesiam ejus, et regat, et ab injuriis defendat, et maleficos ab ea avellat et destruat, et penitus disperdat, &c." The word "reverence" might apply, in a secondary sense, to the reverent esteem and care for the people, as being "the people of the Lord." Collier, t. i. p. 223, notices that the law cannot mean to claim any supremacy in things purely spiritual, since Edward, in the salutation of his letter to the Pope, sends "debitam subjectionem et obedientiam," and sought from him "the confirmation of the privileges he had himself conferred on Westminster Abbey." "Therefore," adds Collier, "his governing the holy Church in the law above cited, must be interpreted in the sense of Queen Elizabeth's injunctions; that is to say, that he was King of the Clergy, as well as the laity, and was to govern them in all things relating to the civil society." T. i. p. 223. There is some uncertainty about the word "veneretur." There are three different forms of the law; (one,) in which the king is said to "venerate and rule, both the people and the Church" (given above). Of these two, the word "rule" is omitted by



is Vicar of the Supreme King, is ordained to this end, that the earthly Kingdom and the people of the Lord, and, above all things, His Holy Church he should reverence and rule, and defend from the injurious, and pluck, destroy, and utterly efface evil doers, from out of her, which unless he do, neither will the name of King belong to him; but, as Pope John [Zachary] attesteth, he loseth the name of King. To whom [the Pope] Pepin and Charles his son, not as yet kings, but princes, under a foolish king of France<sup>2</sup>, wrote to ask whether the kings of the Franks ought so to abide, content with the mere

Hoveden; the word “venerate” by some MSS. In Hoveden (p. 604, Regn. Hen. II.) the text is so changed, that one can hardly but think the change intentional. The title, “Vicarius Christi,” is also effaced; “revereatur” stands for “veneretur.” In this way nothing is said even of *Civil rule*. The only office assigned to the King is to “reverence and defend from evil doers, both people and Church. It stands, “Rex autem atque Vicarius ejus ad hoc est constitutus ut regnum terrenum, populum Dei et super omnia sanctam Ecclesiam revereatur et ab injuriatoribus defendat, &c.” On the other hand, in Thorpe’s Ancient Laws, p. 449. (from MS. Harl. early in 14th cent., collated with two of the 13th cent.), the word “veneretur” is omitted. The text stands there “sanctam ecclesiam regat et defendat ab injuriosis,” which are the two words attributed to the Pope at the end of this law, and which are quoted as authority for it. It was from one of these, the Holkham MS., that Sir E. Coke quoted in the Cawdrey case. The text is more fluent without “veneretur,” which may have been inserted out of custom.

<sup>2</sup> The last of the Rois Fainéants. The Mayors of the Palace, originally ministers elected by the people (Anquetil. Hist. de France, i. p. 303), had, under a succession of weak kings, taken to themselves the real power.

name of King. He answered<sup>3</sup>, ‘They ought to be called kings, who watchfully defend and *rule the Church* of God and His People, imitating the Royal Psalmist who saith, ‘whoso<sup>4</sup> dealeth proudly shall not dwell in my house.’”

I have written much more. As bearing upon the same question of the relation of the spiritual and civil authorities, I have entered, at some length, into the mixed Councils of the kingdoms of German origin, in France and Spain, and our own Anglo-Saxon times. I had prepared, also, something on the influence of the civil power in the election of Bishops, wherein I am satisfied, that the real protection of the Church against bad appointments, lies not so much in the rights of election (however still

<sup>3</sup> This is not the oldest, and perhaps not the genuine form of Pope Zachary’s answer. The *Annales Laurissenses*, ad A.D. 749 [751], relate simply, “Burghard Bishop of Wurzburg, and Folrad Chaplain, were sent to Pope Zachary, enquiring about the kings in France, who at that time had not [*i. e.* used not] the royal authority, whether it was well or no. And Pope Zachary sent a mandate to [mandavit] Pepin, that it was better that he should be called king, who had the power, than he who remained without royal power; that order might not be disturbed, he, by Apostolic authority, that bade Pepin be made king.” The actual king, Hilderic, “received the tonsure, and was sent into a monastery,” *ib.* A.D. 750 [752]. Any how, whether this was the answer of Zachary, or no, it shews what relation of the king to the Church was, in St. Edward the Confessor’s time, acknowledged by the English Church.

<sup>4</sup> Ps. ci. 5. 7.

guaranteed to us by Magna Charta), as in the faithful discharge of the Apostolic and Primitive appointment of the due confirmation of Bishops by their Primate. Some precedents I have put together on the interference of kings either as to appeals to Rome or Ecclesiastical censure, or other points of detail which may occur in our later history.

I had also begun, as others have done, with the times of Henry VIII., construing his Acts of Parliament. But I found that they could not be understood, without studying contemporary documents; and when, by help of these, I had written some seventy pages upon those first acts, whereby the Royal Supremacy was established, I found other principles as to the legislative or corrective power of sovereigns, stated or submitted to, which were to be explained or justified, not by what approved itself to any one's private judgment, but by what was borne out by ancient precedents of the Church. And so I broke off, in order to bring together these precedents.

And now, almost at the close of this holy season, and while hearts are aching or breaking, for fear that the Church should be ultimately compromised by this decision of an incompetent, however well-intentioned Court, which has, unawares to itself, contravened an article of the Creed, "One Baptism for the remission of sins;" I cannot go on at present, calmly clearing up the precedent of our Anglo-Saxon Ecclesiastical laws, and mixed Anglo-Saxon Councils. This (which

was almost finished), as well as the consideration of our later times, I hope, if it please God, soon to resume, and to conclude what I had to say on the royal supremacy, as we have acknowledged it.

Yet I may say now, that this subject, as well as every other which I have examined as to the position of our Mother, through whose ministry we had the Sacrament of our Regeneration, appears to me clearer and more satisfactory, as it is investigated. I mean, of course, that enquiry the more justifies, not what Tudor kings may have enacted, but what the Church conceded.

The Church will hardly be held responsible for the acts of that Henry, whose hands were dyed in innocent blood, and stained with oppression, whose "eyes were full of adulteries, and never ceased from sin," whose evil life was closed by an awful death, whose memory is cursed upon the earth, and as to whose soul none can hope. They who are so anxious to enforce upon us precedents of his Ecclesiastical oppression, should think how they would endure his civil precedents. If not, if the ministers of the Crown are not prepared to maintain that it is right and lawful by the laws of God and man, that a minister should, without form of law, be beheaded, like Cromwell, they might pause ere they urge upon us that monster's acts towards the Church, which she had no power to resist.

The Church is responsible, not for his acts, but for her own concessions. And I am satisfied that



the Church of England has not conceded to the civil sovereign any power inconsistent with that which essentially belongs to her, as a portion of the Church of Christ. In a word, in assenting to the Supreme authority of the Sovereign, there is no proof that she meant to concede any thing which might not be lawfully conceded by her, consistently with her duty to her Divine Master, or her own inherent authority as derived from Him, or her office of bearing witness to His truth. There is no proof that she meant to concede any thing which has not at other times been conceded in different portions of the Church.

In bringing together the precedents collected above, I took what on both sides I knew of or could authenticate. I sought for truth. I did not wish to maintain the prerogative of the Crown, as a mere defence of the present position of the English Church. I could not desire nor dare to narrow the rights and duties of the Church. On the other hand, being in a body which has owned the ancient authority of the Crown, it was my duty to observe such precedents as should justify the principles which the Church had conceded.

The application of some of these precedents will appear later to those who do not already forestall their meaning.

Some questions, I have said, are not, as yet, considered in the above. Those which bear upon the authority of the Pope have been purposely omitted,

because the question here is not between the authority of the Pope and that of our own Episcopate, but relates generally to the limits of the spiritual and temporal authorities. I did not wish to embarrass the question by any consideration not immediately involved in it.

The result appeared to me to be, that there had at all times been considerable authority given to Emperors and Kings, from the time that the Emperors became Christians; that, when not abused, it was cheerfully submitted to by the Church; and that even anomalies were borne with for the time, and amended when they could.

Authority was confided to Kings *as Christians*. It was not given to them (except in one insulated case, the Appeal to Aurelian) before they became Christians. It would have been profane to have entrusted it to Pagan Emperors. The power, which an infidel and Anti-Christian Sovereign, the great scourge of the Church of Christ since the day of the arch-impostor Mahommed, exercises over the Patriarch of Constantinople, is shocking; and but for the miserable jealousies of politicians in Christian States, and the indifference of the Western Church, would long ago have ceased.

The power then, of Sovereigns, being confided to them, *as Christians*, it was to be expected that they would exercise it *as Christians*, *i. e.* according to the laws of that Body of Christ to which they belonged, of which they were themselves members and sons.

They could not rightly be external to the Church. To be external to the Church, would be to be external to the Body of Christ.

The characteristic of the influence of Christian Monarchs upon the Church, when legitimately carried out, has been that they have exercised the authority given to them by God, according to the rules given by God to the Church. The Church inherited her authority from the same Divine Power "by Whom kings reign." The rightful exercise of the one power could not interfere with that of the other. "The <sup>5</sup> Ecclesiastical dignity advanceth rather than diminisheth the royal dignity; and the royal dignity hath been wont rather to preserve, than to take away the liberty of the Church. For the ecclesiastical and royal dignity meet, and, as it were, embrace one another; since neither have kings their well-being [salutem] without the Church, nor doth the Church obtain peace without the protection of kings."

As the broad outline of the influence of Christian kings upon the Church, it may be said, "they acted *upon* her but *through* her." They set in motion her own powers and functions; but did not act *for* her, much less *against* her.

In collecting these precedents my object was mainly to treat of legitimate authority,—what Princes had and what they had not, and allowed that they had not. And this very materially affects this question, not as

<sup>5</sup> Arnulf. Lexov. Ep. 52, quoted by De Marca, 2. 13. 9.



matter of reform, but as fact. For what Henry VIII. and Queen Elizabeth claimed, and what eminent lawyers have affirmed to be conceded, and what the Church meant to concede, was no other than the ancient prerogative of the Crown, which had been invaded, it was alleged, by the authority claimed by the Pope. Whatever authority, then, was unknown to former times, cannot with justice be said to have been conceded by the Church, unless it can be shown that the Crown, in express terms, claimed, and the Church, in express terms, conceded it. No municipal corporation, no guild, no private person, not the poorest subject in Britain, would be understood to give up a right, which he did not, in some recognized way, convey. But of this hereafter.

The one principle, which seems to me to run throughout these precedents is this, that the Civil power called into action, regulated at times, limited, controlled, enforced by civil sanction, the authority of the Church, or restrained it, that it should not act independently of itself; but hardly acted itself directly, or usurped the Church's place.

Thus not only were General Councils called together by Emperors, but (as our Article says), they could not of old be called together without them. So that even serious confusion has been submitted to for a time by the Church, sooner than infringe this admitted principle<sup>6</sup>. A General Council even ad-

<sup>6</sup> See the case of St. Chrysostom, pp. 42, 43; Eutyches, p. 49.



mitted that it could not proceed against heretics without permission from the Emperor<sup>7</sup>. This extended even to Provincial or National Councils<sup>8</sup>. Our own St. Anselm bore patiently with great decay of morals, without applying what was felt to be *the* remedy, the assembling of Councils, when the consent of the Prince could not be had<sup>9</sup>. It would seem strange, now, that the Civil Power should without any acknowledged need of the Church convene a General Council, and propose the subject upon which it was to frame its decree. Yet even this, being not at variance with the faith, the Church consented to; and the Council which condemned "the three Chapters" on the urgency of Justinian, is enrolled in the venerable company of the six Œcumenical Councils<sup>1</sup>. Subjects<sup>2</sup> have even systematically been brought by kings before Provincial Synods; their decrees confirmed; and, in matters of discipline, have been submitted to the civil power for revision<sup>3</sup>. Emperors most distinctly disclaimed any *direct* authority to interfere in matters of faith<sup>4</sup>. *Indirectly*, by the strength which they could give to the decrees of the Church, they could so aid her in maintaining it, that she scrupled not to speak of them, as maintaining it jointly with herself<sup>5</sup>.

In like way, as to matters affecting discipline.

<sup>7</sup> Rule 12, p. 118.

<sup>9</sup> *Ib.* p. 109. & below Rule 19.

<sup>2</sup> Rule 14, pp. 120—127.

<sup>4</sup> Rule 1, p. 17 sqq.

<sup>8</sup> Rule 6, p. 128.

<sup>1</sup> Rule 13, p. 119.

<sup>3</sup> Rule 15, p. 127.

<sup>5</sup> Rule 2, p. 22 sqq.

Emperors could propose to Councils the subjects which they desired to have enacted<sup>6</sup>, or they might select, out of the existing canons, a code to which they gave civil sanction<sup>7</sup>; they might even add details, in conformity with the principles of the Church<sup>8</sup>; and such codes were virtually adopted as the law of the Church<sup>9</sup>. They did not legislate for the Church apart from herself. Yet the Church did not stand upon any narrow or jealous system. She did not refuse the help which the Code of Justinian gave her, in carrying out her own rules, because it was compiled, not by herself directly, but by the Emperor. She accepted it gladly as a whole, even with his additions<sup>1</sup>, although these affected not property only, but the election and discipline of Bishops, and in one case he, by his own authority, in order to correct a grievous evil, altered a custom in the celebration of the Sacrament, which the Church had adopted out of reverence<sup>2</sup>.

More anomalous still, according to our modern principles, are cases, in which Bishops or Clergy were removed, apparently by the Civil Power alone, upon *notorious* contraventions of the rules of the Church, or when bodies of married canons were dispossessed and dismissed by a king as Vicar of Christ<sup>3</sup>.

<sup>6</sup> Rule 17, p. 134.

<sup>7</sup> Ib. p. 135—140.

<sup>8</sup> Ib. p. 135—7.

<sup>9</sup> Ib. p. 136, 140.

<sup>1</sup> Ib. p. 135, 137.

<sup>2</sup> See Palmer's *Origines Liturgicæ*, ii. 17. 1st edit.

<sup>3</sup> Rule 18, p. 140—143.

There was a certain sense in which some Councils admitted that Emperors might preserve<sup>4</sup> the union between Church and State, give heed to the condition of the Church, provide for its peace and freedom from divisions, the purity of religion and the stainlessness of Bishops. Language, the tolerance of which in Queen Elizabeth is thought to imply a sinful acquiescence on the part of the Bishops, was not only acquiesced in, but acted upon, in the Gallican Church<sup>5</sup>, in admonishing, enjoining, correcting, the ministries of Bishops, and delegating the royal authority to a Vicar General.

In the ordinary cases of the Church's judgments, however, whatever influence the Civil Power exercised by way of ultimate appeal, it exercised through the Church itself. By custom, neither the sovereign, nor any Civil representatives were present at an Ecclesiastical trial<sup>6</sup>. Yet the Emperor or King, as the Minister of God to correct all evil-doers<sup>7</sup>, was entitled to give justice to all his subjects in all their causes, to see that those wronged were righted, and to help the oppressed against him that was too strong for him, provided that he himself did it in a lawful way. Even in Ecclesiastical causes, this was freely conceded to him, if he

<sup>4</sup> *Ib.* p. 16, 17.

<sup>5</sup> *Ib.* p. 142.

<sup>6</sup> Rule 4, p. 28 sqq.

<sup>7</sup> See *e.g.* the express words of Eusebius, Bishop of Dorylæum, complaining in the Council of Chalcedon to the Emperor against Dioscorus, the Patriarch of Alexandria, p. 44, and Eunomius, p. 45.



only did it according to the laws of the Church. Patriarchs<sup>8</sup>, Œcumenical<sup>9</sup> Councils, the common voice and practice of the Church, conceded this. The Emperor bound himself not to let Ecclesiastical causes be brought into Civil Courts<sup>1</sup>; he was left free to appoint Episcopal judges. Nothing was then said about derived jurisdiction. It was not thought that in matters of discipline, or of faith, Bishops acted by a “delegated authority,” because a particular case was referred to them by the Emperor, or because Bishops were by name convened by an Emperor to decide it. The African canon, acknowledged by both East and West, fearlessly and without restraint, permits an appeal to the Emperor, provided only the Appellant asked for Bishops as his judges<sup>2</sup>. The canon places no restriction upon the appointment of the judges, provided only they be Bishops. An African canon of the same Council<sup>3</sup> points out different ways in which an appeal may be heard, which it recognizes as equally legitimate. In later times, an important Council (Frankfort<sup>4</sup>), allowed an appeal to be made even to the king in person, “with the consent of the Metropolitan.” And, in matter of fact, different modes have been used by Christian Emperors with consent of the Church. Single Bishops

<sup>8</sup> St. Athanasius, p. 39 ; St. Julius, p. 40 ; St. Chrysostom, p. 42 ; Flavian, p. 45 ; St. Leo, p. 49.

<sup>9</sup> Ephesus, p. 48 ; Chalcedon, p. 43—45. 49 sqq.

<sup>1</sup> Rule 8, p. 54 sqq.

<sup>2</sup> Rule 5, p. 31.      <sup>3</sup> p. 27.

<sup>4</sup> p. 57.



have been named <sup>5</sup>; Bishops summoned by name <sup>6</sup> to a Council; a Western<sup>7</sup>, or Local <sup>8</sup>, or General <sup>9</sup> Council has been convened; its President virtually appointed <sup>1</sup>; a Council has been superseded by convoking another <sup>2</sup>; or causes have been referred to a Council then sitting <sup>3</sup>; or (contrary to the ordinary rule of the Church, that causes should "be heard where they arise,") the Emperor was allowed to transfer a cause affecting Bishops to a different province <sup>4</sup>. The Church understood well, that Bishops, when they judged, however they were called together, judged in God's stead, by the authority given to them by God. And so she cheerfully acquiesced in each mode which was adopted, conscious of the inherent authority, given by Christ to His Apostles and their successors.

These cases of appeal are mostly by Bishops, but the Canon did not so restrain them; one of the most celebrated was that of Eutyches the Archimandrite.

The ordinary mode however, in which the judicial authority of Bishops was exercised upon appeal, was in Provincial Synods. This, in one case, (*i. e.* causes in which the Crown is concerned,) is still recognized, I believe, as the ultimate Court of Ap-

<sup>5</sup> p. 33.

<sup>6</sup> p. 34.

<sup>7</sup> Arles, p. 37.

<sup>8</sup> *i. e.* not distinctly defined in its extent. Aquileia, p. 115; three Synods, p. 42.

<sup>9</sup> Sardica, p. 40; Ephesus, p. 48; Chalcedon, p. 43 sqq.

<sup>1</sup> The heretic Dioscorus, p. 47.

<sup>2</sup> Rule 6, p. 48 sqq.

<sup>3</sup> Sirmium, p. 41; Seleucia, *ib.*

<sup>4</sup> Rule 7, p. 52 sqq.

peal in the Church of England. Any how, it was so recognized in the first Act of Henry VIII., after he had received his new title.

This system of Provincial Synods I have taken the more pains to illustrate, because it is *the* plain remedy for the evils of the existing system; one by which the recognized authority of the Civil Power, as derived from Holy Scripture, and the inherent authority of the Church, are alike respected. I feared lest, to some unacquainted with antiquity, it should seem merely a paper scheme, a revival of an antiquated Court in a past state of things. I have therefore traced the Provincial Synods<sup>5</sup> from the very birth of Christianity, as provided for by the Ante-Nicene Canons, existing in Greece in the second century (shortly after the Beloved Disciple was called home to his Lord), spoken of incidentally as an ordinary matter by a Bishop of Asia Minor in the third; existing in Africa, antecedent to any existing Canons; regulated by its Canons; enjoined upon the whole Church by the first Council in which the whole Church spoke; carefully enacted and ordered in Illyricum and Germany, and by successive Provincial Councils in France and Spain; existing in the ancient British Church; renewed in the Saxon Church soon after our Saxon forefathers were converted; surviving the Norman Conquest; and at last merged in the Upper House of Convocation, which was, in

<sup>5</sup> Rule 9, p. 57—113.

great measure, the same body; and in this form, existing even after the time of Henry VIII. I have incidentally adduced witnesses also, how disorder every where ensued from the disuse of Provincial Synods<sup>6</sup>; how one of the first measures of days of returning order was to revive them<sup>7</sup>. I have cited instances which came in my way, shewing that *these* synods also were, at times, convened by kings, and could not be held without their leave<sup>8</sup>; so that to some, zealous for the inherent authority of the Church, it need seem no essential abatement of their value, nothing which the Church may not accept, if the Crown again refer causes of appeal in matters purely spiritual, or touching doctrine, to the Upper House of Convocation (which is now all one with the Synod of the Province), or to a National Synod.

A Court of Appeal, so primitive, so universal, tried in successive ages under every variety of circumstances, in every people of every clime, in every condition, rude and barbarous, as the Germans on their conversion, or our Saxon ancestors, or polished as those of Greece, and under all circumstances approved; sanctioned and recommended by three Œcumenical Councils, adopted by the civil law both of East and West, cannot be one of ordinary value. That must be right and safe for the Church, which has been so universally applied, tested, approved,

<sup>6</sup> pp. 75. 78. 91.<sup>7</sup> pp. 75. 91.<sup>8</sup> pp. 81. 86.



and still longed for, even when disused<sup>9</sup>. Its disuse in these last ages, the more illustrates its usefulness for us. The annual Synods were disused in the East<sup>10</sup>, because having become Patriarchal instead of Metropolitan, the difficulty of meeting from a distance was enhanced, so that they became impracticable. In the West they were superseded by the Authority of the Pope; for, having ceased to be final Courts of appeal, they were useless. We returned to an earlier state of things, sanctioned by Œcumenical Councils, in which these Synods were Metropolitan and final.

But it is said, that, while our Bishops are appointed as they now are, we could not trust such Synods with the faith of the Church. The objection goes far deeper than this one function of the Episcopal Office. But this evil, like others, would be its own remedy. If the purpose, avowed on one occasion, to "liberalize the Church through the Bishops," were attempted to be carried out, the two great sections of the Church, which hold the faith of the Gospel dearer than their lives, would unite to oppose it, by prayer which would be heard of God, and remonstrance which must be heard by man.

Meantime, we must trust, that Bishops assembled in Synod, when the voice of each will concur to fix the doctrine of the Church, and when they will

<sup>9</sup> p. 96.<sup>10</sup> p. 92 sqq.



not be giving individual opinions in popular language, but as a body, will be declaring the faith of the Church, will feel a solemn responsibility, and use a stricter language than they have sometimes employed, when speaking in popular addresses to their Clergy. The language of Synods and of Canons is precise, determinate, matured. It *will*, we may trust, be guarded to a degree, which to individual Bishops, when speaking singly to their own Clergy, may have seemed less required.

But these are human calculations. Our real trust must be, that since it is the way, which God has blessed in former times, He will bless it to us now. Our trust must be, not in man but in Him Who has promised to be present when two or three are gathered together in His Name; Who has always been believed to be present in Synods, and Who will be present, if devoutly called upon by the Church, when causes are tried, and by the Bishops assembled to guard the faith and truth of Christ. "In thee I have trusted, I shall never be confounded."

And so in like way, in Him must our trust be, in this threatening hour.

It is painful to point out what the Church has in former times borne for a while, as a precedent. But *you* will not think that I use it in any other way than as a ground for patience, until the Church have time to recover from the blow inflicted upon her by persons who "knew not what they did." It is a

comfort that they “knew not what they did;” that they dreamed not that, in purchasing tranquil times, as they deemed, the price which they paid away was an Article of the Creed, which each Lord’s Day they solemnly profess before God. They did not, could not know it. It was indeed<sup>1</sup> pointed out in the pleadings; but they somehow did not entertain it. The judgment is given, as if the Judges were as unconscious of the Article of the Creed, “One Baptism for the remission of sins,” as if they had been themselves unbaptized. And so we may the more hope that a judgment so manifestly in error, delivered in utter invincible ignorance of the nature of the heresy<sup>2</sup> which was brought before them, and of the meaning of the formularies upon which their judgment was to proceed, cannot be allowed to have any lasting force. The heresy in question and the formularies of the Church of England have only been brought together by entirely mis-stating both.

<sup>1</sup> Mr. Badeley’s speech, p. 205—8.

<sup>2</sup> Lord Campbell and Lord Langdale, by their own statements at the close of the hearing, show that they *could* not understand the difference between the Church’s doctrine and Mr. Gorham’s. Mr. Badeley had said: “Independently of his other errors, Mr. Gorham’s theory of ‘Prevenient Grace,’ while it is utterly heterodox and untrue, has a most perilous and injurious tendency; for, if the Church hold what he holds, there is scarcely a parent who would like to bring his child to Baptism.” (Mr. Badeley’s Speech, p. 203.)

And truly. For, according to Mr. Gorham, an infant either has *before*, or not at all, what the Church believes to be given by God *in* Baptism. Why then bring a child at all? Or rather, it

It is sad to turn to the *latrocinium* of Ephesus as a precedent to comfort the Church of England. Yet

would be a duty not to bring an infant, since, if it have the convenient grace, it receives *nothing* by Baptism (see Bishop of Exeter's Letter, p. 57), and, according to Mr. Gorham's theory of the Articles, if it have it not, it, being an unworthy recipient, "purchases to itself damnation," which, being incapable of any thing, it would be incapable of avoiding.

Lord Campbell, on this says, "According to Mr. Gorham's doctrine, every parent may be perfectly tranquil; he is sure, if the child is baptized, and dies before committing actual sin, the child must be saved."

Mr. Badeley—"If it *dies*?"

Lord Campbell—"Yes; a parent may be perfectly satisfied with the administration of the Sacrament under these circumstances. I am not giving any opinion that that is according to the doctrine of the Church of England; very far from it: but if the child dies, then salvation is declared; and if the child lives and falls from grace, you yourself say, in spite of Baptism, he will not be saved."

What would Lord Campbell say to his own argument in a worldly, not a spiritual good; in matters of estate, not of the soul; as a judge in a case of civil citizenship, not of being a "member of Christ?" "If the child dies, he will not inherit the property; if he is a spendthrift, he will waste it; why should he have it at all?" or, when he has wasted it, "He has not the property now, therefore he never had it."

It were better for the finally impenitent never to have had grace; but is it then nothing to *know*, as certain truth, that, by God's grace, our *living* children have been made "members of Christ, children of God, and inheritors of the Kingdom of Heaven?"

Lord Langdale makes the whole difference to consist in an "unhappy expression."

Lord Langdale—"The doctrine seems to be this,—the infant, being baptized, and dying before the commission of actual sin, is certainly saved. *There is the washing away of the original sin.* What Mr. Gorham says afterwards is, if faith and repentance follow, Baptism is then effectual for all the purposes of Baptism;



the very atrocity of that proceeding may the more illustrate the patience which, while protesting, bore

that is the way it seems to be worked out; that not having committed actual sin, he is *saved by Grace given in Baptism*, or by prevenient grace, which is rather unhappily expressed, I think, and it is *made effectual by faith and repentance*."

Lord Langdale apparently states the doctrine of the Church, "that original sin is *washed away* [*i. e.* by Baptism], that a person is saved by grace, [first] given in Baptism, and made effectual by faith and repentance;" *i. e.* becoming effectual in the adult through faith and repentance in the actual conversion of the whole soul to God.

But Mr. Gorham says the grace is "*before*, not *in* Baptism." (See Bishop of Exeter's letter, p. 49 sqq.) Lord Langdale as his interpreter says, that "prevenient grace," *i. e.* grace *before* Baptism is "rather an unhappy expression" for "grace given *in* Baptism." He *could* not understand that it made any difference, whether this grace were given *before* or *in* Baptism (see p. 201.)

*Dr. Lushington* (p. 198) says, "you agree as to the effect; the question is whether grace is prevenient, or, as you call it, concomitant." This, of course, is not the Church's doctrine, as Mr. Badeley answers. "I do not speak of grace as being merely '*concomitant*,' but as the *immediate effect* of Baptism, as given *in and by Baptism*." But Dr. Lushington seems to think, that there is no real difference of doctrine, if the same "effect" be allowed—that it does not matter, of *what* it is the effect. He overlooks entirely both the questions at issue 1. Whether the grace be given to *all* infants through the Sacrament of Christ, or to a certain class only. 2. Whether it is given *through* the Sacrament at all. He cannot perceive that the Sacrament is thus made (as Hooker objects, 5. 57. 5) "*a naked sign* and testimony assuring us of grace received before;" more empty than the rites of the law, on the part of the judges. None of these judges understand that they are restraining the mercies of Christ, as believed by the Church.

One cannot look upon a judgment, passed in such incapability, of understanding the question, as having been *wilfully* heretical, on the part of the judges, however injurious to the Church.



up under it. Then the faith of the whole Church seemed to be perilled. An Emperor, mispersuaded by a favourite, ventured to form his judgment, that the Patriarch of Constantinople was wrong in narrowing questions, which in the Emperor's judgment the Church had left open. So he convoked a Council, which, had its proceedings not been irregular, would have been an Œcumenical Council. One Presence was wanting, that of the Holy Spirit in those who directed it. The Emperor contrived that a heretic should preside over it; so heresy was acquitted, truth condemned. Eutyches was restored to his office at Constantinople; the name of the Orthodox Patriarch who died from his wounds, was struck out of the diptychs as a heretic, by virtue of the act of the "Den of Thieves." The heretical and profligate Patriarch of Alexandria remained in possession of his see, acknowledged because not formally condemned. The see of Rome was then occupied by one to whom, for his defence of the Christian faith, the whole Christian Church is most deeply indebted, St. Leo. Yet St. Leo patiently endured all this. He used the way of protest and remonstrance. The protest of his legates in his name had cleared his soul from any participation with these misdeeds. He then betook himself to petitioning for a Synod which might amend all this. But, for two years, the Church lay under this grievous act, inflicted by a Council, which, in outward form, was gathered as a General Council. For two years, heresy triumphed,

the faith was, in the person of Flavian, disgraced and oppressed. The death of the Emperor, and an orthodox successor, gave freedom to the Church.

Surely, with such a precedent, it must be our bounden duty to be very patient. Very patient, not of evils or heresy, but with some slowness (if so unhappily it be) in gaining the whole remedy which the case requires. Nothing in the way of doctrine, short of formal, conscious, deliberate, heresy, can cut off a Church or individual from the body of Christ. Such is not yet even the act of the Judicial Committee. Much less is such the mind of the body of the English Church. Most do not know what the heresies of Mr. Gorham are; and the Judicial Committee, having blinded itself, has only, as far as its judgment goes, blinded those who know no more. We have no ground to think that those, who are satisfied with the judgment of the Privy Council<sup>3</sup>, would be "satisfied," did they know that an Article of the Creed had been denied.

This has now<sup>4</sup> been pointed out to the Church. "One Baptism for the remission of sins" is as plainly a part of the faith, as the belief in the "One Lord," Whose Precious Blood, shed at this time for us, washes away our sins, in and through the Sacrament of Baptism. "One Lord, One Faith, One Baptism, one God and Father of all." But since

<sup>3</sup> Statement of Lord John Russell in the House of Commons.

<sup>4</sup> Letter of the Bishop of Exeter, p. 48—52.

there is only "one Baptism for the remission of sins," all, infants too, are baptized for the remission of sins. Holy Scripture,—the Catholic Church of all ages, our own formularies as distinctly as any, the very speechless, helpless state of infants itself, in which they know not their right hand from their left,—bear witness that they have no actual sin. The sin, then, remitted to them, is original sin. The Church holds that original sin is remitted to all infants by the application of the Blood and Merits of our Saviour Christ in and by the Sacrament of Baptism. The Privy Council decides that the contradictory of this, that original sin is not remitted at all, unless it have been remitted previously to Baptism, is equally tenable in the English Church. They imply more; that the English Church purposely constructed her Articles so, as to admit equally and impartially both opinions, that original sin is so remitted, and that it is in itself a hindrance to the worthy reception of the Sacrament, wherein, the Church teaches, it is remitted.

This, as has been pointed out<sup>5</sup>, is the very principle of unbelief. To maintain two contradictory statements to be equally tenable, is to deny the importance and certain truth of either. To admit the lawfulness of holding an exposition of an Article of the Creed, contradictory of the essential meaning of that Article, is, in truth and fact, to abandon that Article.

<sup>5</sup> Bishop of Exeter's Letter, p. 85.



Indifference is the deadliest and most incurable form of unbelief. Other wrong principles confuse one article of faith, indifference denies that there is any faith. They who hold the lowest type of doctrine as to Baptism, believe some truth; this judgment sweeps away all alike, pure or mixed, perfect or partial, truth. All who have been feeling their way back to the fuller truth, all who have been solidly grasping any one truth, all who hold that faith dearer than life, are swept back by one wave into the barren sea of doubt and uncertainty. Uncertainty would henceforth, if the decision of the Privy Council hold, be the only certainty. The Privy Council did not see the meaning of their own statements, when they decided only that the conditional interpretation was admissible. Had they followed out their own principle, they ought to have maintained that it is *the* principle of the Church of England. The hypothetical scheme is more exclusive than the truth of the Church. The full truth enfolds within its orb all partial truth. Each partial truth (if it be but inadequate, not mingled with heresy) acknowledges a portion of the full truth, and so far does homage to it. The hypothetical theory shuts out all alike. It is an oppressive, noxious vapour, extinguishing every ray of light and warmth alike.

Those who have unduly limited the word "Regeneration," and perplexed themselves by their own use of it, mostly believe that original sin is, through



the tender mercy of Christ, remitted to all baptized infants through the grace of Holy Baptism; or they believe generally that the grace of the Sacrament is given alike to all infants; or they take the words, “wherein I was made a member of Christ, a child of God, and an inheritor of the kingdom of Heaven,” in their plain, literal sense, without defining further to themselves; or they believe that grace is given to the infant, although not *actual* grace, *i. e.* grace which may issue in the complete conversion of the soul to God, in St. Augustine’s words, “*conversio in corde sequetur*,” or they believe that grace is given, but not “that grace which never dies;” which grace *they* call “regeneration,” and the *Church* “the grace of perseverance.” In which they incur, indeed, great risk to the soundness of their own faith, by changing the meaning, which the Church, on authority of Holy Scripture, ever gave to the doctrinal term, “regeneration.” Yet it may be, that, in their real meaning, they differ not very widely from the Church, although giving an unauthorized name to a gift acknowledged by the Church also. For the Church too believes that “the grace of perseverance” is a superadded gift, bestowed not on infants, but on ripening or ripened piety.

All these, because they hold certain dogmatic truth, are equally set aside by the judgment of the Privy Council. To all alike it says, “The Baptismal services are constructed on a judgment *of charity* ;” they “convey assertions which *may be* true in any

case, and which we are permitted *in charity* to hope may be true in the particular cases in which we [you] are directed to apply them," but "they *must not* be taken as of course to bear an absolute and unconditional sense; the services abound with expressions which must be construed in a *charitable* and qualified sense." Strange perversion indeed of the word "charitable," through which, out "of charity" to parents, infants, the whole Church, we are to believe nothing certainly as to our baptized infants, and are only "charitably to hope" what our Church bids us "not to doubt," the "good-will of our Heavenly Father, and that He favourably alloweth this charitable work of ours." To turn "faith" into "doubt" is "charity." However, this "judgment of charity" cuts at the root, not of this or that belief, but of all.

But while this judgment denies that there is any certainty that any particular infant derives *any* benefit from the Sacrament of Baptism, it raises no doubt what *the* benefits of that Sacrament are, when "rightly received." There is a vague impression that all the heresies contained in Mr. Gorham's work are justified by the judgment, both that which, in a very modified form, is there stated, and those which (as his Diocesan has pointed out<sup>6</sup>) are contained in the Answers which Mr. Gorham published and so brought before the notice of the Church, and which

<sup>6</sup> Letter, p. 48, sqq.

are passed over. This, however, in the judgment of eminent lawyers, is not so. The Privy Council have pronounced that "the doctrine held by Mr. Gorham is not contrary nor repugnant to the declared doctrine of the Church of England," without making themselves responsible for the greater part of the heresy which he holds. They have carefully made themselves responsible, not for the book itself upon which they passed judgment, and which they professed to find difficult to understand, but for the doctrine which they themselves give as Mr. Gorham's. This very much narrows the field of heresy. As stated in the judgment, it seems to me to come to this: that the grace of Baptism is never bestowed unconditionally; [*i. e.* neither to adults, nor to infants universally.] That in Infants this condition is "God's grace and favour;" and this, I suppose, must be interpreted by the half of Mr. Gorham's statement which immediately bears upon it, *viz.*, that infants being born in original sin, are unworthy recipients of Baptism, but for an act of *prævenient* grace, which he holds to be given to some and denied to others.

In order to square this theory with the formularies of the Church, the Judicial Committee have tried, in an elaborate pleading, to establish that the formularies of the Church are intended to be taken in an uncertain sense. Her statements are dogmatic and precise; she gives no hint that they may be qualified. But the Court ruled that she meant her



services to be used in a conditional sense, *i. e.* to be used *absolutely*, and understood *conditionally* ; to declare a truth of *all*, meaning that it should be understood only of *some* ; to declare as *certain* what she thought to be *uncertain*, that each infant brought to Holy Baptism received the benefit of the Sacrament of Christ, to which “it is most agreeable to the Institution of Christ” that it should be brought.

The doctrine, then, denied by the Privy Council, is not the Church’s doctrine of the grace of Baptism in itself. The Privy Council did not even consider the subject of the grace of Baptism. It recites as Mr. Gorham’s statement, “that he explicitly and expressly denied, that he either held or persisted in holding, that Infants are not made in Baptism ‘members of Christ and the children of God.’ ” It alludes to the fact of “the Church having been harassed by a great variety of opinions as to Baptism,” but is silent as to their nature. The point upon which the whole judgment turns, is, whether the gifts bestowed by God in Holy Baptism are given to *all* Infants. The question raised has not been as to the *gift*, but as to the *receiver*. The judgment would leave all the Church’s formularies untouched, only with that dreadful “if,”—blighting and withering to parents’ hearts and Christian hope. It admits all the doctrinal teaching of our ancient Baptismal office, only with that “if,” “*if* they had God’s grace and favour” before, which, in this scheme, none knows of. It admits, it presupposes that all which that Office says is



true, "if"—it be but true as to the particular infant. it remains admitted, that in Baptism, "our Lord Jesus Christ grants to children the thing which by nature they cannot have; that they may be baptized with water and the Holy Ghost, and received into Christ's Holy Church, and made lively members of the same:" only whether it be so as to "*this present* infant," none knoweth. It remains admitted, that "of His infinite mercies, God mercifully looks upon" children, "washes and sanctifies them with the Holy Ghost, delivers them from His wrath, and receives them into the ark of Christ's Church;" only His infinite mercies are to be bounded, and whether they extend to "*this* infant," none can tell. It is still to be true, that *some* "infants, coming to His Holy Baptism, receive remission of their sins by spiritual regeneration;" only to some, original sin in which the child is born, under which it lies, of which it is unconscious, is to be an obstacle to its own remission. It is not contradicted that the "water is sanctified to the mystical washing away of sin," and that some, "baptized therein, receive the fulness of His grace;" that "the Holy Spirit is in Baptism given to infants, that they may be born again and made heirs of everlasting salvation;" that "our Saviour Christ," who "commanded children to be brought unto Him, and blamed those who would have kept them from Him, favourably receives" infants now, and "embraces them with the arms of His mercy." But that upon which the Church insists in

every case, not only the general promise of Christ to infants brought to Him, but His mercy to “*this infant*,” “*this child*,” “*this present infant*,” is to be matter of uncertainty. In vain does the Church, in every exhortation, doctrinal declaration, prayer, thanksgiving, speak of Christ’s mercies, not to “children in general,” but to “*this infant*.” The Court rules that it need not mean what it *does* say, “*this infant*,” and that it may mean what it does *not* say, “infants or children” in general. If it may so mean, then it would follow, of course, that no one knows what the real meaning in each case is ; only that such strong dogmatic declarations would be worse than unmeaning. I say, it would be worse than unmeaning, if when the Church says, “seeing this child *is* regenerate, and grafted into the body of Christ’s Church,” she meant, that “it may be so, or may not.”

However, this doctrinal teaching of the Church is admitted to be true. It is to be true, that “infants are regenerated with God’s Holy Spirit, received for His own children by adoption, and incorporated into His Holy Church.” It is to be true that children “are made members of Christ, children of God, and inheritors of the Kingdom of Heaven ;” only each particular child who is taught by the Church to say, “*I was made*,” is taught by the Privy Council expounding the Catechism, that it is doubtful, not whether it is living up to that which God made it, but whether God ever *made* it so, or no.

The doctrine of the Church as to Baptism is to

remain true. One thing in the Baptismal service is not to be true. They are our Lord's own words: "Ask, and ye shall receive; seek, and ye shall find; knock, and it shall be opened unto you." For the gifts of Baptism are supposed to be given, or not given, according as a child has, beforehand, had an act of *prævenient* grace, is *already* in "God's grace and favour." Every where, in every declaration of Holy Scripture, in the faith of the Creeds, in the devotion of our offices, in reciting the promises of our Lord, we are to be met by this parching, withering mental reservation, this "if;" we may take nothing freely, nothing filially; we are not to take the Word of God with the simple confidence with which we take the words of man. Every where this "if" is to come between us and our hopes for our children, to rob us of our childlike dependence on our Saviour, that "what He has promised, He will most surely keep and perform." Nothing is to be taken as it stands. "Exceeding precious promises" are made to us, no restraint placed overtly on His bounties or "the bowels of His compassions." But underneath all is to lie this "if," turning the healing fruit of the Tree of Life into apples of Sodom, fair and beautiful to the eye, like the fruit of Paradise, but within, emptiness, dust, and ashes. We ask for bread, and on this scheme none is to know whether his Father will give him bread or a stone, nay, rather a scorpion; since (as was pointed



out to the judges<sup>7</sup> the only alternative of “worthy reception” is unworthy; and the consequence of “unworthy reception is,” according to the teaching of the Church of England, “to purchase to themselves damnation.” (Art. xxv.)

The judgment then denies not the grace of the Sacrament, not any particular gift of God, but the universality of *any* grace to Infants. It denies all certainty that Christ does receive *all* Infants brought unto Him. It rules that, where all besides is alike,—the presence of *original* sin, the absence of *actual* sin, the incapability of faith and repentance *then*, the utter helplessness,—it need not be supposed, that, as when He was upon earth, so also now He received *all* brought unto Him, that His Sacraments are “effectual, because of His institution and promise,” to those alike incapable of receiving worthily or unworthily. It allows of a doctrine (not Mr. Gorham’s), that certain infants only receive the benefits of the sacrament; the rest, as “unworthy recipients,” are shut out. And this, because infants are made unworthy recipients by original sin.

This, as has been said, is directly contrary to the Article of the Creed. And the remedy and bounden duty of the Church is, to re-affirm fully the Article impugned, in some such statement as that which has more than once been mentioned, that original sin,

<sup>7</sup> Mr. Badeley’s Speech, p. 43, 44. 200.



which, on this theory, is converted into an obstacle of right reception, is, by the application of the merits of our Redeemer, remitted to all Infants through the grace of the Sacrament of Baptism. This is *the* heresy of the decision. This is *the* contradiction of the Creed. This lies at the root of all that lax construction or falsification of our Baptismal offices; this it is, which would make Baptism so doubtful, that the Church, if she believed it, ought to abandon Infant Baptism altogether, not bringing these helpless, unconscious infants to our Lord, unconscious of their own wants, unable to ask for grace, yet to receive no mercy from Him unless they have already received what they cannot ask for. The Church's ground for bringing Infants to Baptism is, that "it is most agreeable to the Institution of Christ." But how can it be agreeable to His institution to bring young children, many of whom, on this theory, are "unworthy recipients," when yet neither His Word, nor the Church, tells how they can be made worthy, or who are so, who not? If the absence of actual sin, or of any wrong will, suffices not for Infants to receive the Sacrament of Christ beneficially, clearly it would be the bounden duty of the Church and of parents to delay their Baptism, until they could, by God's grace, be fitted to "receive worthily."

We ought to be very reverent in speaking of the purposes of Almighty God, in over-ruling the evils of men. But still, among the troubles of the Church, we may think of the bow in the cloud, and pray that

He will "in judgment remember mercy." Heresies He has always permitted in the Church, and it has been observed<sup>8</sup> how the Church has ever gained on occasion of them, becoming more vividly conscious of her own meaning. What heresies have done for the Church formerly, this unconsciously heretical judgment may, by God's overruling Providence, do for individuals now. It is remarkable that the contest which now convulses the Church, and shakes men's hearts to their very centre, has been permitted to arise about an extreme heresy. Its especial form is one which may awaken some to a deeper understanding of their Creed, and may offer to others a passage over to the fuller truth.

You have long known how persuaded I have been these fifteen years, that *good* men who seem to be opposed to the truth, are not really opposed to it, but to some counterfeit which they mistake for it, and which they suppose to be held as the truth. They are afraid of the simple declaration of the truth, which is so arrayed in their own minds; but their own faith is better than their words. "They "are of the truth," if they could but divest themselves of certain rooted persuasions as to the nature

<sup>8</sup> "Many things belonging to the Catholic Faith, being agitated by the cunning restlessness of heretics, are, that they may be maintained against them, both considered more diligently, and understood more clearly, and set forth more earnestly ; and the question mooted by an adversary becomes an occasion of learning." (de Civit. Dei, xvi. 2.)

of the truth. Thus, as to this doctrine, I suppose that scarcely any one who speaks against the doctrine of Baptismal Regeneration, would even dream that the following statement of Hooker is held by those who with the Church, believe in it, to be an adequate exposition of the change in the infant's soul. "The grace which is given them with their Baptism, doth so far forth depend on the very outward Sacrament, that God will have it embraced, not only as a sign or token what we receive, but also as an instrument or means whereby we receive grace, because Baptism is a Sacrament which God hath instituted in His Church, to the end that they which receive the same might thereby be incorporated into Christ; and so through His most precious merit obtain as well that saving grace of imputation which taketh away all former guiltiness, as also that *infused Divine virtue of the Holy Ghost, which giveth to the powers of the Soul their first disposition towards future newness of life.*"

They imagine that we believe, not only in an "infused Divine virtue of the Holy Ghost, which giveth to the powers of the soul their first disposition towards future newness of life," but that an actual conversion of the infant's soul takes place, after which no further change can be needed; that, if any one be baptized, he may sit thenceforth with almost folded arms, keeping himself in a certain "moral" life from great outbreaks, but without any conversion of the whole soul and all its powers to God; so that,



whereas, in its natural state, itself would be its centre,—its own pleasures, desires, comforts, ease,—henceforth God should be its One Centre, the Home of its affections, the Aim of its every power and faculty, through the Grace of God constraining it. They think that by “a state of salvation” we mean a state in which salvation is secure, and can with great difficulty be lost. People are told, that “the teachers” and the taught, receiving it as a part of their creed, that whatever is meant by the new birth was imparted to them in Baptism, *conclude that they are in a state of life, while one and all may be in a state of death;*” that “*a disease is removed, and requires only a little mollifying cure, which affects the heart, and is mortal, unless effectually met at that centre of life.*” Now, since these statements, urged as the primary objection to the true doctrine, are manifestly untrue, it may be the rather hoped that those who make them are not opposed to the faith itself, but to certain untrue conceptions of it. The present judgment does not affect the doctrine about which *they* are anxious. They do not wish to theorize about the mercies of God to infants; they do not mean to deny God’s *present* goodness to *them*; they have not, I am persuaded, a thought that a doctrine of the Creed is involved in this question. What they are contending about is a practical question as to persons’ *actual* state, not as to the nature and character of

<sup>9</sup> Record. Article on the Judgment of the Judicial Committee.



the grace bestowed upon infants. They object, I am persuaded, to no other doctrine of Baptismal regeneration than one which should render (as they think) children or adults careless as to their own *actual* holiness, as if, this having been done *for* them, there was little or nothing to be done *in* them or *by* them. They would not, according to their own language, hesitate to believe "One Baptism for the remission of sins;" they cannot doubt that infants, too, have original sin, or that it is so remitted to them; they cannot think that God does not convey to *them*, whose Baptism is most agreeable to the institution of Christ, His primary gift in that Sacrament; they cannot think that children, brought to Christ, are sent by Him empty away, children of wrath; or that infants can have sins remitted to them without being in a state of grace; or that they are taken out of their state of nature in Adam, and are not made members of Christ; or that they are made members of Christ, without the grace of Christ. They only set themselves against such a conception of baptismal grace, as should supersede (as they suppose) all subsequent care as to actual holiness. They are only anxious, I am persuaded, that the *actual* conversion of the whole soul to God should be felt to be a great and difficult work, not completed at the moment of Baptism, but to be wrought in the conscious being by God's Holy Spirit, enkindling faith, enlightening the understanding, conforming the will, and transferring and transforming the affections from their

state of estrangement from God, into love of God Himself, for Himself. And it may be, by God's mercy, that on occasion of the heresy of Mr. Gorham, those who do not share it may the rather see and be brought to understand the full meaning of the Faith which they profess in the Creeds, and the whole Church be united in one understanding of the Article of the Faith which we all alike acknowledge with our lips before Almighty God, "I acknowledge one Baptism for the remission of sins."

The reaffirmation of the doctrine impugned is essential to the Church, to remedy past evils. It would be suicidal on the part of the Church to obtain no security for the future. The Civil Judges indeed disclaim deciding whether doctrines brought before them are "theologically sound or unsound." But they claim to decide on points, as they think, not before decided, whether "certain opinions are contrary or repugnant to the doctrines which the Church of England, by her Articles, Formularies, and Rubrics, requires to be held by her ministers." And to this end they claim, as their office, (and indeed it is essential to the other) "to ascertain" for themselves "the true meaning of the Articles, Formularies, and Rubrics." In a word, they hold that they might not decide what is the truth; but they might decide what, whether true or false, is to be held to be consistent with the formularies of the Church of England.

The exercise of that claim seems to have startled every religious body which has heard of it, abroad or

in England. The English had not thought much of the principle while dormant, or not exercised on matters belonging to the very Creeds themselves. We are, above others, a practical people. We do not see things in their abstract bearings. We do not feel wrong principles until they issue in wrong actions. The former doctrinal decision of the Privy Council, on Lay Baptism, happened to be right. It was in accordance with the decisions of the Church at large, and of the Church's Court here; and no more was felt than that it was a strange anomaly, like the Donatists' appeal to Constantine in person.

We have now seen an Article in the Creed decided upon in ignorance. The very Article is mentioned incidentally in the Judgment. "One Baptism for the remission of sins' is acknowledged by the Church." It is quoted in proof that Baptism is not to be repeated; but without the slightest apparent consciousness that it had any bearing upon the heresy upon which the Court was called to pronounce.

Articles of the Creed, then, are within the range of the subject-matters whose true meaning the Privy Council has to determine. The question then is forced upon the Church, what are its qualifications for the office; and does the supremacy of the Crown "over all causes" involve the continuance of such a Court, to decide in matters purely spiritual?

A Court-martial to determine a question of heresy



would sound absurd. Why? The officers who compose Court-martials are accustomed to examine in those causes which come before them; they are used to try moral offences (as drunkenness), and to appreciate their evil when they interfere with discipline. They have strict rules as to obedience, subordination, respect for authority. They have a high standard within the limits of their code. They would punish any moral offence committed by officers in the service against the poorest boy committed to their care. Why should they not apply these habits of mind to a question of doctrine, and decide what is, and what is not "repugnant to the doctrines of the Church of England?" Why should this seem absurd, and the judgment by the Privy Council sound and good? I ask in all earnestness, In what way are Christian officers less qualified to judge on points of doctrine, than the judicial members of Her Majesty's Privy Council? The only qualification of either is, that they are, or ought to be, Christians. A Roman Centurion confessed, by the Cross, "Truly this was the Son of God," while all the Apostles, but one, had fled. A Roman Centurion was the first-fruit of the Gentiles. In our day too, we have Christian officers. A simple faith might, in many cases, qualify "the way-faring man though a fool," to speak on matters of faith. *The* disqualification alike of a Naval or Military Officer, or of a Civil Judge, to decide in questions of heresy, is, that they have



received no commission to do it from our Divine Master. The most difficult office of the Church herself, to “determine controversies of faith,” is not to be taken as a mere by-occupation, alternating with Admiralty causes. Civil Courts hold themselves, at this moment, prohibited from judging in matters of faith. A question of faith which incidentally arises, they are bound by the Civil law itself to refer to the Archbishop. How do Civil Judges become qualified to decide in the same causes, by sitting as Her Majesty’s Privy Council? How would it not be tempting God, to allow persons, however well-disposed, to decide on questions, which may involve the very life of the Church, with no single preparation for the office, beyond that of every Christian layman, with less preparation often than of unoccupied Christian laymen, because theirs is a life of exceeding toil, tasking all their powers of mind for other duties? Either such questions might safely be referred to a trial by Jury, or they ought not to be committed to the Privy Council. In the question now decided, twelve pious, unlettered Communicants of our peasantry would have been more likely to give a sound judgment, than the members of the Privy Council. For *they* would have brought a simple faith, through which so plain a matter of faith would have been most readily discerned.

The Privy Council cannot continue to be the judge of heresy in the English Church. Points of faith will not be accounted of less moment than

points of honour. Civil Courts<sup>10</sup> are not thought the best tribunals to decide on military discipline, cowardice, and obedience. Are the Eternal Sonship of God the Son, or the Being of the All-Holy Trinity, or the extent of Christ's Redemption and of His love for all our infants, subjects less deep, less essential to our well-being, or to our peace? Common sense, natural feeling, instinctive reverence, coincide with the rules of the Church, and the practice of Christendom in all ages, which requires that matters of faith should be referred to those who are, by God's appointment, "Overseers" of the Church of God, whom the Church requires to vow before God, that "they<sup>11</sup> will banish and drive away all erroneous or strange doctrine contrary to God's word;" — the special guardians of the Faith.

Is, then, this inconsistent with the Royal Supremacy "in all causes?" Of course, if it were, we must deny that Supremacy. But (as I have endeavoured to explain myself) I cannot see this. The strongest<sup>1</sup> assertion of the Royal Supremacy claims no other "authority" than "that possessed by Christian emperors of the Primitive Church." This, then, is the limit on both sides. The Church *then* allowed appeals to the Emperor, not from single Bishops only, but from Synods, provided that the appeals were

<sup>10</sup> A very able and sensible article on this subject appeared in the "Spectator," soon after the decision.

<sup>11</sup> Office for the Consecration of Bishop.

<sup>1</sup> Canon 2.

heard in a lawful way. The Emperor had the causes reheard. *He*, it was said, might "give Episcopal judges." The plenitude of power of a Roman Emperor did not extend to the appointment of *civil* judges, contrary to the law of the Church. The Church did not consider it an invasion of her inherent authority, that appeals from her decisions were made to the Emperor, and that he directed that causes, which she had decided, should be reheard through herself. Why should not an English Sovereign be content with the authority of a Roman Emperor? Why should it be an impeachment to the inherent authority of the Church in England to acquiesce in what the whole Church has acquiesced in? No *wrong* principle is involved in causes of the Church being revised by aid of the Crown, if they be revised according to the principles of the Church. No *right* principle can be involved in claiming that the prerogative should be exercised in a capricious, arbitrary way, to the sacrifice of the very ends for which it is given. To select unfit judges can be no part of the royal prerogative. To trample on Magna Charta can be no part of the security of the Crown. To claim the things of God will not strengthen the authority of Cæsar.

The objections made to this are twofold: the one, that too little would be left to the Crown; the other, that too much.

The one say, "You would make the title 'Supreme Governor over all persons in all causes, as well tem-



poral as ecclesiastical,' a mere shadow, if it can be exercised in one particular way only." I answer, "No more a shadow than the authority of Constantine and Justinian, which is what our kings claimed ; no more a shadow than that of all the ancient Kings of England, whose jurisdiction the acts of Henry VIII. and Elizabeth professed to restore." One of the earliest English laws extant<sup>2</sup>, eleven centuries and a half ago (A.D. 697), ordains that "the Church shall enjoy her own judgments;" Magna Charta began by declaring that the Church of England shall have "all her rights and privileges." Among these was that of deciding spiritual causes in her own Courts. In the short-lived Constitutions of Clarendon, wherein an attempt was made to introduce Norman laws, an appeal to the King was allowed, "if the Archbishop failed to do justice," and "by his injunction, the Controversy was to be terminated *in the Archbishop's Court*<sup>3</sup>."

<sup>2</sup> Spelman, *Concilia*, i. 194.

<sup>3</sup> The terms of the Constitution are broad and absolute. It speaks of "appeals" generally without any limitation. "De Appellationibus si emerint, ab archidiacono debet procedi ad episcopum, ab episcopo ad archiepiscopum, et si archiepiscopus defuerit in justitia exhibenda, ad dominum regem perveniendum est postremo, ut præcepto ipsius in curia archiepiscopi controversia terminetur ; ita quod non debeat ultra procedi absque assensu domini regis." (Art. 8 in Wilkins, i. 435.) King Henry II., when subsequently remonstrated with, in the Pope's name, by Gillebert, Bishop of London, and the Bishop of Hereford, incidentally explained that this "Constitution" related only to *civil* causes. "In appeals," Bishop Gillebert writes to



The Prerogative of the Crown is to give redress to all its subjects. But summary, arbitrary redress of wrongs is no right, nor any part of the Royal Prerogative. That Prerogative is strengthened, not weakened, by adhering to the forms of law. In Civil matters, the Crown does not the less give redress, because it is given through Civil Courts; nor would it in Ecclesiastical matters, if redress were given through the Courts of the Church, or its highest Court, a Synod. In temporal causes, the Crown acts according to the temporal laws, and the rights secured to the subject by Magna Charta; and this is held no infringement of the Prerogative. How then, in Ecclesiastical matters, would its Prerogative be infringed by adhering to the principles

Pope Alexander, "he [the King], by the ancient institutions of his Kingdom, claims to himself as an honourable charge, that none of the clergy of his realm should go out of that realm *for any civil cause*, without first ascertaining whether he can obtain his right through the King's authority and mandate" (in Hoveden, A.D. 1166, in Wilkins, i. 444). If this was his original meaning, this "Constitution" the more illustrates the Act 25 Henry VIII. c. 19. For there is absolutely no limitation in the "Constitution." If then these broad terms had no reference to any thing but *civil* causes, it need not be thought that matters of faith were thought of in the Act 25 Henry VIII. The "Constitutions," however, in no case, give any sanction to the abuse of that Act. For the limitation that the controversy should be terminated "by the King's injunction (*præcepto*) in the Archbishop's Court," saves the internal jurisdiction of the Church, and keeps the appeal within ancient precedent. The contest was between the King and the Pope, not between the King and the Episcopate.

which are a special provision of the same Magna Charta?

On the other hand, it is said, " You thus concede a dangerous principle, a principle which you acknowledge to have been lately abused; why not speak against the royal supremacy 'over all persons in all causes' altogether?" I would answer, simply; that principle was not dangerous in itself, but became so, because a necessary limitation of the mode of exercising the authority was, in trust and confidence, omitted. With such limitation the appeal to the Sovereign was allowed in Canons recognized by East and West, was sanctioned by the early Church and by Œcumenical Councils. One only difference there is, that what is in itself a faulty system, allowed in no body calling itself Christian, is recognized as the law of the land with regard to the Church of England. What is Civil law can only be repealed by the Civil law. The civil, as opposed to the religious force of the act of a Provincial Synod, has been taken away by the civil power; it can only be restored to it by that power. It can only become the law of the land through the Civil Legislature. If then the Crown be content to allow that appeals touching doctrine should be decided in the ancient and recognized way of the Church in all ages, by a Court already existing, the Upper House of Convocation in each Province or in both Provinces united, *i. e.* by a Provincial or National Synod, may not the Church

lawfully accept an enactment to this effect? Surely she may.

We have been all in the wrong together, and all have seen, I trust, the wrong together. The members of the Privy Council themselves probably were among the first to feel themselves in a strange position. Their very judgment shows that they felt their office anomalous. They seem to have ruled that the Articles were (which, of course, they cannot be) a "Code of Faith," in order to leave the less scope for their own interpretations. They seem to have wished to narrow the ground to themselves. They tried to satisfy themselves that they were only construing the formularies of the Church of England, her "Code of Faith," as they would construe "statutes" or legal precedents; that they were not deciding on the theological truth or error of the points before them. But this involved a still stranger anomaly. For they themselves virtually laid it down as a maxim, that what was theologically false *might* not be "repugnant" to the "Code of Faith" of the Church of England. A strange maxim for Supreme Judges in the English Church, that she might allow to be held what was contrary to the Faith. One can only suppose that, either from their habit of considering laws *ab extra*, as being simple administrators of them, they forgot that they were, in this case, administrators of laws, which involved the faith and truth of the Gospel, and the faithfulness of the Church in bearing witness to that truth, or that they



laid down this maxim to shield the anomaly of their position, without considering the worse anomalies in which it involved them. One cannot help thinking, that some of their questions evinced that they were on strange, unwonted ground, invested, for the first time, with a strange office. Familiar as they were with the precedents of their own calling, here almost every authority which was to furnish an element in their decision was to them new. Their intimate acquaintance with the causes ordinarily brought before them, must have made them feel more strongly the strangeness of their position in this.

However, it is felt to have been an anomaly. But it is not an anomaly which we can cast upon the present legislature. We cannot honestly say, that the fault was theirs exclusively. It was a common negligence. Neither the legislature nor the Church, for the most part, saw the effect of what was done. The Court, not having been secured by fixed principles in the first instance, gradually declined. A prescription of seventy years from its institution, during which, all through the reigns of Henry VIII., Edward VI., and Elizabeth, no Civil Judge, none but Bishops sat in it, may show what it was at first intended to be<sup>4</sup>. A partial, gradual, and as yet

<sup>4</sup> I would not be understood as defending the Court of Delegates as a safe Court of Appeal; still less as thinking that any similar Court would be safe, now that Convocation is not sitting to correct its judgments; and less still, now that the Minister of the day virtually wields the power of the Crown, and might select Bishops to be judges, as being likely to decide in a certain



unexplained, declension took place under the first Stuarts, in which, however, until 1639, "the<sup>5</sup> name of any Civil Judge is found only in one commission out of forty." "From thence, *i. e.* from the downfall of Bishops and their jurisdiction, which ensued, we may date the present rule of mixtures in that Court." At the restoration of the monarchy, its original character was not restored. And so during the secularity of the last lukewarm century, it passed from bad to worse, until the exchange for the Privy Council, of which some Bishops were *ex officio* members (2 and 3 Gul. IV. c. 92), was acquiesced in eighteen years ago, as a supposed improvement. The very ground of this change (which was recommended by a commission) was, that "There are lords *spiritual* and temporal as well as lawyers of every Court in that Council." The stress must have been

way. I mean this only, that since a Canon, acknowledged by the whole Church, allowed an Appellant to ask of the Emperor Episcopal Judges, and so allowed him to appoint them, the Church of England did not acquiesce in a principle absolutely wrong in acquiescing in the Court of Delegates.

But in the present state of things our only safety is to cast ourselves on the mercy of God, Who will guide, as we trust, through His Spirit, the decisions of our collective Episcopate. And earnest minds will feel this. However we may have hoped that God might in some way overrule the late judgment, no one thought that Christ would be present in that Court, as the Church has ever hoped, and we may hope, that He will be in a synod of Bishops, guiding and directing their minds to the well-being of His Church.

<sup>5</sup> Gibson, Codex, Introd. p. xxi. on inspection of the cases in the Reg. Offic. Cur. Delegat.

on the presence of the "lords spiritual." For it would have been a strange ground of fitness for hearing appeals touching the faith, that the Chief Baron of the Court of Exchequer, the judge of the High Court of Admiralty, and chief judge in the Court of Bankruptcy formed part of the tribunal. At least one does not see the connexion of the offices. In the next year, however, 1833, the ground of the change was forgotten. Appeals were by 3 and 4 Gul. IV. c. 41, transferred from the Privy Council generally, to a "judicial committee" then created within it, of which the "spiritual lords" formed no part. A subsequent enactment provided that the Judges of whom the "Judicial Committee" was formed, need not, with two exceptions, be members of the English Church; and these two need not sit in any given cause, as they actually did not sit on the late occasion. And thus, for want of the principle being defined at first, a Court, which originally consisted of Bishops, to the exclusion of Civil Judges, now consists of Civil Judges to the exclusion of Bishops, and *might*, in any given cause, consist of Judges, aliens from the faith of the Church of England, to pronounce what her faith is.

Yet this was a change which the Church overlooked, not anticipating that she could herself be compromised by it. Experience alone has awakened her. The Bishop of Exeter<sup>6</sup> in 1844 saw and pointed

<sup>6</sup> Debate in House of Lords, March 8, 1844, quoted in "Guardian," No. 221, p. 236.

out the effect of this change of 1833, but his warning was unheeded. He told the Legislature that "the result of transferring the jurisdiction of the Privy Council to the Judicial Committee was, in point of fact, to remove from the Church the ultimate decision of all matters connected even with the very doctrines of the Church." He was "sure it must have been a *casus omissus*." Since then most of us, Clergy who, from our calling, ought (if any) to have given more attention to the subject, were, practically, so little conscious of the powers vested in the Privy Council, we should the less impute any fault to the Legislature.

It does not then seem to me an occasion for standing out upon the *mode* of restoring what is right, when all were in the wrong together. The very restoration of what is right is surely sufficient, as it is the practical correction of what was wrong. We can hardly call upon the Legislature now to make the abstract acknowledgment, that the judicial system has been more or less wrong for two centuries. It is enough surely that they own that it is now practically wrong, by restoring what is right. This is the way of the Scripture itself, "cease to do evil, learn to do well." We need not surely be very rigid as to the formal *mode* of correcting the evil, if the evil be but solidly corrected. It is not a question about which there can be any real doubt or debate. It is not as if the Church had to consider of a substitute for the existing Court. *The Court of*



Appeal, which has existed from the time of the Apostles, is plainly the Court which the Church would choose now. It will be better, indeed, if the wishes of the Church can be expressed in a formal way, through her organ, Convocation, than gathered informally. But if there is difficulty about this, surely, so that the right remedy be provided at the desire of the Church, we need not risk distracting people's minds by insisting that it *must* be formally accepted by Convocation. At least, not, if it be conceded at once.

The Church has long, by a sort of tacit concurrence, allowed the State to carry out the provisions, which she felt necessary for her. She has not objected to the *form* of legislation, provided that the legislation itself were right. This has indeed had great evils. It would have increasing evils, unless, by God's blessing, the nation be (as it has been in some measure) recovered again to the Church. But the question now is, must we increase our difficulties by raising the question now, and that, not on occasion of a grievance, but when (if it be so) the State is willing to amend that grievance?

There are two distinct and important principles involved. 1. That the ultimate Court of Appeal in all matters of faith, or purely spiritual, should be a Synod of Bishops. 2. That in matters affecting the Church, the Church herself ought to have the initiative.

But surely it is of moment, that of the several



grievances to which we are now subject, we should bring forth each distinctly, and not incidentally. We are bound in charity to set forth things, so that those whom we call upon to act, and who must consequently act in some way, rightly or wrongly, may fully understand us and what we are aiming at. The Church may either state her grievances as they arise, or she may consider the whole body of grievances, and the inferior Clergy may pray our Bishops to present, as of old, a well-considered list of the "*Gravamina Cleri et Ecclesiæ Anglicanæ*." Our definite meaning would be understood in either case. If we confine ourselves to the specific grievance pressing upon us, it will be understood that we are not endeavouring incidentally to acquire power for the Church in the abstract, (which perhaps, she is, for the time, unfitted to use aright,) but as Christian men are aiming at the removal of a definite grievance of conscience, under which we are labouring.

If, on the other hand, we were to bring forward all the grievances of the Church temperately together, our whole line of proceeding would be definite and distinct, and it might be felt that we were not aiming at some ulterior and secret end. The *Gravamina Cleri* under Edward II., not to say *Magna Charta* itself (which the Church was a chief instrument in gaining), are precedents of the one sort. The whole modern system of legislation favours perhaps the other, to take each case of grievance when it arises. It would occupy some time, too, to

consider maturely all our grievances and all their remedies; and we are now lying under a pressing, oppressive evil, for which we need a speedy redress.

Whichever course be adopted, let it be deliberate, calm, distinct, and with unceasing prayer to Almighty God. But it is surely best to take one of these ways, to state either the one specific grievance, or all.

It is said, indeed, that what the State concedes the State alone may rescind. True! Against arbitrary power there is no defence, except in suffering. But whatever the State concedes now, it will concede as a recognition of the first principles of justice, conceding to the Church of England the rights of every religious community. And there is no fear lest this should be rescinded, save by one of those convulsions which should cut the State loose from the Church,—to perish. But the very form of the objection places it on the ground, not of principle, but of expediency. It puts it on the ground of insecurity. But a right principle, once conceded, has its own stability, as an act of conscience on the part of those who concede it, as the fruit of God's Holy Spirit, carrying them over every secular obstacle and secular prejudice.

The parting of the State from the Church is no light matter. To the State it is suicide. There was "a secret traditional proverb, taught from father to son in the royal family of France," and committed to writing in 1406<sup>7</sup>. The language is that of the

<sup>7</sup> By the author of the MS. *Dialog. de Hierarch. subcælest.*

State, not of the Church, which is "married" to nothing earthly; but its close is an earnest warning:

"Mariage est de bon devis  
De l'Église et des Fleurs de lis.  
Quand l'un de l'autre partira,  
Chacun d'eux si s'en sentira."

The French kings corrupted the Church, and when the Church had lost its hold over the people, the first French revolution followed. They were restored; the last, who bore the name of King of the French, oppressed it,—and is in exile.

Among ourselves, the State has to fear, not from the opposition, but from the alienation and consequent indifference of the Church. We have seen, in earthly politics, how concessions which would, at an earlier period, have contented the nation, were as nothing when the refusal had aroused an united people. The refusal to enfranchise Liverpool or Manchester, entailed a political revolution. The Church fights not with the world's weapons. But refusal of a just claim compels enquiry into the whole system, which can maintain that refusal. One great shock has been maintained already, when, apart from the merits of the case, the presiding Judge in the Queen's Bench decided, by his casting vote, that the Apostolic practice of the examination and

iv. 11, quoted by De Marca, ii. 12 fin. "A certain illustrious scion of the said House of France once, after his confession, laid open to me, that among the said Frank lords there was one secret proverb, which fathers teach their sons in vernacular French, thus, &c."



confirmation of Bishops, which was carefully perpetuated in the legal forms under Henry VIII. and Queen Elizabeth, was to be a dead letter in the English Church. The English Church awaited some new case, in which her claim might, on some change in that Bench, be heard. The claim was silenced for the time, not extinguished. But that act awakened a new deep mistrust, such as the refusal of the forms of justice creates especially in English minds. One of the most sacred rights of the Church, to *know* that her Bishops are "void of offence," "with no imputation" against them (ἀνέγκλητον, Tit. i. 6), was trampled under foot. The same feeling of mistrust has been increased every year by that which alienated the Church in France—the struggles about education. The Church is, in this way, learning the lesson which the State teaches her, to act for herself. The sanction of marriages, prohibited by God's law, and therefore prohibited by the law of the Church of England, and the State's protection of Clergymen who shall transgress those laws, threaten, unless God avert it through the Upper House, a fresh infringement of the "liberties of the Church of England," as secured by Magna Charta.

I will not anticipate a refusal on the right now claimed.

The advisers of the Crown must know that its authority is mainly upheld by the Church. It has been so all along its history. The Church gladly accepts a rightful supremacy. To accept a wrongful



one would be falsehood to the Crown itself. "We, in the Emperors," says Tertullian<sup>8</sup>, "reverence the judgment of God Who hath set them over the nations. I will by all means call the Emperor lord, but only when I am not compelled to call him lord in the place of God. We pray for the Emperors to the Eternal God, the Only God, in Whose power alone they are, to Whom they are second in power. Why say more of the religion and reverential affection of the Christians towards the Emperor, whom we must needs look up to, as the man whom our Lord hath chosen. By keeping down the majesty of Cæsar beneath God, I commend him the more unto God, to Whom Alone I subject him. But I subject him to One to Whom I make him not equal." Cæsar's image is stamped upon the coin, God's upon the soul. The conscience is God's. We honour Cæsar with the things of Cæsar. If Cæsar demand the things of God, the very principle from which the supremacy flows is destroyed.

But we have a sacred duty to the State also, while we may lawfully render it. We should not, on every fresh offence of the Legislature, speak of the separation of Church and State. It is like the cry in the fable, "Wolf, wolf." If the Church eventually must so speak, let her speak, not through individuals, but strongly, definitely, in unmistakeable earnest. One whose memory all reverence, says<sup>9</sup>, "Let not my

<sup>8</sup> Apol. c. 30. 32, 33. pp. 69—73. Oxf. Tr.

<sup>9</sup> St. Bernard. Ep. 243, ap. De Marca l. c.

soul enter into their counsels, who say either that the peace and liberty of the Churches will injure the empire, or that the prosperity and exaltation of the empire will injure the Churches. For *God, the Framers of both, hath joined them together, not to destruction, but to edification.*" The Church must not, as long as she can with a safe conscience help it, allow the State to incur so great a sin, through which the throne would totter. To the Church the loss would be, not her endowments. These we must use to God's glory while we have them, but poverty is the wealth and the strength of the Church. The loss would not be worldly station. This we have for the sake of the educated laity, not for ourselves. The loss would be our ancient institutions and our collegiate and parochial churches<sup>1</sup>; the churches

<sup>1</sup> It seems to me a duty not to contemplate a disruption of the relations of Church and State, until it should be forced upon us by that very duty to God, through which we now abide as we are. But if it must be hereafter, (which God forbid!)—if our duties to Himself cannot be maintained without risking any thing which may befall us as to our Ancient Churches and Institutions,—it will then be the question for those who feel that the Faith must be preserved by the risk of all besides, whether they must not concur with those who desire to have no Establishment at all, in the hope that, "with the loss of all things we may win Christ,"—that the Church of England, bared of all besides, may, like the reviving Church of France, hold her way against wind and storm and tide of human things, impelled by His power within her. The Church in the United States (however sorely it injured itself at the outset by withdrawing the expression of sound truths) began to flourish, when, stripped of all besides and trampled in the dust, it received its episcopate which the State had denied to it.

wherein our fathers have worshipped from generation to generation; the representatives of those wherein God was first worshipped here. Believing ourselves to be the true shepherds, appointed by the Great Shepherd, Who, as at this time, gave the command, "Feed My sheep," we dare not, until we must, risk abandoning the sheep committed to our care. To the Clergy all places are one, where their Master's lost sheep are to be sought and saved out of an evil world. The word of God is multiplied through the dispersion of those who teach it. But we have each our special charge—souls entrusted to us. We may not abandon "the few sheep in the wilderness," so long as we can lawfully discharge our trust. We need not, because a heavy hour of trial is upon us, familiarize ourselves with the thought that we must abandon it. He hath delivered us in "six troubles;" and "in seven shall no evil touch" us. He who spared us in the lukewarmness of the last century, will not abandon our Church in the more devoted earnest service which He has given her the wish to render. He has not, in vain, allowed the Church to undergo every form of trial; He has not upheld her in every hour of trial, and raised up sons for her in every variety of need, to abandon her now. He does not supply fresh grace, suddenly to withdraw it; give the fresh oil of His Holy Spirit to our lamps, in order to extinguish them; give fresh growth to the Vine

which His Right Hand planted, in order to root it up; give increased Faith, Truth, Charity, Devotion, in order to abandon His work; nor enlarge His Presence among us, as the forerunner of His Departure.

These are not His doings. He does not break off His work "in the midst of the years." Only instead of complaining of, or to, one another, let us complain to Him. The sorrow of the Church is the herald of its deliverance. "Thou shalt arise and have mercy upon Zion; for it is time that Thou have mercy upon her; yea, the time is come. And why? Thy servants think upon her stones; and it pitieth them to see her in the dust." Whether others exult, or complain, or censure, or talk indifferently as about news, of what enters into our very souls, let *us* pray; every thing may remind us of our troubles; every thing bids us pray. Let us not think that our prayers must be heard at once; let us not grow weary or hopeless about them; let them not be an effort of a few days or weeks, but persevering, continuous, unbroken. God, Who is Almighty, has given to prayer of His own Almightiness. For ORATIO vincit DEUM<sup>2</sup>.

I subjoin an ancient prayer of the Church of England in times as troubled as these, which now too is being used perseveringly.

<sup>2</sup> Tertullian.



“O LORD, favourably receive the prayers of Thy Church; that It, being delivered from all adversities and errors, may serve Thee in safety and freedom; and give peace in our time: through JESUS CHRIST our LORD. Amen.”

Your very affectionate friend,

E. B. PUSEY.

Asherne,  
Easter, 1850.

## POSTSCRIPT.

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It is with the deepest pain that I must, on the defensive, notice the statement of a friend, bearing upon the substance of what I have said in these few last pages. That statement, made in a sermon, and since printed, is as follows:—

“And here especially you may see the total inadequacy of the remedy which has been proposed,—I deeply lament to say, proposed by *some who ought to know better*, namely, that as ‘the remission of original sin to infants in Baptism’ has been denied, it would be sufficient if we could get that doctrine adequately asserted. What is this but *an evasion of the real matter in dispute?* We want to know, we want to be taught on the Church’s authority, not merely that original sin is remitted, but that the risen life of Christ is imparted to the baptized infant. We want to know whether the words of our Catechism are really true, or merely speak of a fiction; whether our children speak the real truth or not, when each one says, ‘Wherein (*i. e.* in Bap-

tism) I was made a member of Christ, the child of God, and an inheritor of the kingdom of heaven.' This is what is *distinctive* in Christianity, arising from that central truth of our Faith, which we this day commemorate. A pious Jew hath sin remitted. A conscientious heathen, for aught we know, may, with God's grace, have the same<sup>1</sup>. But to be a Christian, is to be *in* Christ. And this it is which God's grace in Holy Baptism does for us. It grafts us into Christ. It plants us into Him. It is the beginning of our new life. All depends upon it."

I need hardly say, that I concur in every word of the doctrine of the sermon from which this extract is taken, that the centre of Christian being and Christian faith, the very essence of Sacraments, is union with Christ. It is the very doctrine, the full preaching of which, I have long hoped, might be the ultimate means of healing the divisions in our Church<sup>2</sup>. It is the doctrine, developed by Hooker,

<sup>1</sup> This earnest writer does not, of course, mean that "conscientious heathens," however they may be pardoned and accepted at the Last Day, through His Merits in Whom God knoweth they would have believed, had He been preached unto them, have sins remitted to them in this life through the Grace of "Christ," or that the statement that "original sin is remitted in and by the grace of Baptism" does really assert nothing more and higher than may, "for aught we know," be true of "conscientious heathen."

<sup>2</sup> See Preface to "Sermons from Advent to Whit-Sunday." See also Tracts on Holy Baptism, Sermons on the Holy Eucharist and Absolution.

from older writers, that the Sacraments are fruits of the Incarnation, uniting us to our Lord, and deriving His Life into us. In Hooker's words <sup>3</sup>, "We receive Christ Jesus in Baptism once, as the first Beginner; in the Eucharist often, as being, by continual degrees, the Finisher of our life. By Baptism, therefore, we receive Christ Jesus, and from Him that saving grace which is proper unto Baptism. By the other Sacrament we receive Him also, imparting therein Himself and that grace which the Eucharist properly bestoweth. So that each Sacrament having both that which is general or common, and that also which is peculiar unto itself, we may hereby gather that the participation of Christ which properly belongeth to any one Sacrament, is not otherwise to be obtained but by the Sacrament whereunto it is proper."

The question is not of "doctrine," but of "fact." All who believe a doctrine of the faith to be impugned by the judgment, must desire that it should be re-affirmed by the Church. Yet surely if one does not think that so much has been impugned as another, he is not therefore to be thought to betray the faith. We are bound by truth as by charity, neither to enlarge nor to narrow the denial of truth. The judgment is very involved and obscure. The question upon which the whole judgment turns, is whether the benefits of Baptism are, for the time being, bestowed conditionally or uncon-

<sup>3</sup> v. 57. 6.



ditionally. The Court, misinterpreting Mr. Gorham, rules that it is consistent with the formularies of the Church of England, to maintain that Baptism is conditional upon the child's being already in "God's grace and favour," that some infants are so, and some not, and *that*, because being born in original sin, they are "unworthy recipients." This is a plain denial of the Article of the Creed, "one Baptism for the remission of sins." The form, then, suggested in the preceding pages<sup>4</sup>, seemed to some who adopted it, directly to meet the heresy sanctioned by the judgment, and to re-affirm the doctrine of the Creed. On the other hand, Mr. Gorham, in his pleading, as set out by the "judgment," "explicitly and expressly denied, that he either held or persisted in holding, that infants are not made in Baptism members of Christ or the children of God;" with the above limitation (of course) implied, that they were (in his sense) "worthy receivers."

Mr. Gorham indeed, in the plain sense of the words, did what he here denies that he did. For it is evading the meaning of the words to say, that when the Catechism teaches a child to say "wherein I was *made*," it means only "wherein I was *declared* to be what I *had been made* before." However, the Court accepted his statement, and, if the Church were to affirm the statement in this form, the emphasis must be on the word "*all*,"—that "*all* infants are made," what is assumed in the judgment to be true of some.

<sup>4</sup> pp. 186-7. See p. 176 sqq.

The statement as to the "remission<sup>5</sup> of original sin to all infants, in and by the grace of the Sacrament of Baptism," was devised to meet the truth directly impugned. This was its object. But some certainly were glad, and I think rightly glad, that the very mode of re-affirming the doctrine might shew to others who, we trust, have a sound belief, though entangled in difficulties as to the mode of stating that belief, that they held more truth than they were aware. I have stated above that many, not the least devout and earnest, of the so-called Low-Church, are not opposing the truth of Baptismal Regeneration, but an untrue imagination of it. And this affirmation of heresy which *they* do not hold, seemed to furnish an occasion for stating the truth in a way in which they might more readily perceive that they held the real truth, or be brought to hold it.

The question which they suppose to be at issue, is not, I am persuaded, as to the real grace of the Sacrament, but as to the *actual* change in the infant's soul, and the need of any further change, by which the grace imparted in Baptism may actually take up all the powers of the man, and, being continually

<sup>5</sup> In the Resolutions published with the subscription of names in all the papers a little before Easter, and those adopted by the London Church Union, and published in "the Guardian," March 20, 1850. It would have been better probably to have said, "through the application of the Merits and Blood of Christ our Redeemer." But this was understood, since remission can only be through His Blood.

enlarged and renewed, may conform the whole soul to the mind of God. The words whereby St. Augustine describes this change are favourite words with them: "The Sacrament of regeneration in them doth precede, and, if they *hold on* in Christian piety the conversion of the heart will follow, the mystery whereof preceded in the body." (De Bapt. c. Donat. l. 4, c. 24.)

I did not and do not imagine that pious Low-Churchmen would hesitate to accept the saying of Hooker already quoted. And so, I trusted that we might meet together in St. Augustine's statements, whom we all alike reverence, as a "godly father;" affirming, 1. the remission of original sin to *all*, and *that*, through the grace of the Sacrament; in other words, 2. a removal of death and an imparting of life, "a death unto sin and a new birth unto righteousness."

To take three passages of St. Augustine: "From the little one just born, to the decrepit old man, as no one is to be kept from Baptism, so there is none who does not die to sin in Baptism; but little ones only to original, the elder sort to all those also, which, by living ill, they have added to what they brought with them by birth." (Enchirid. c. 43.)

"The grace of Christ, which the little one has once received in Baptism, he doth not lose, except through his own ungodliness, if, as age increaseth, he becometh so evil." (Ep. 98, ad Bonifac. § 2.)

"At whatever time, then, in this life men begin to be such, that though they have once been imbued with



the Divine Sacraments, according to the dispensation of the times (Eph. i. 10) they are still carnally minded, and hope and desire of God carnal things, whether in or after this life, they are natural men (animales)" (1 Cor. ii. 14). "No one is to be despaired of:" but "whether they seem to be within the Church or are openly without, that which is flesh is flesh: whether they continue on the floor in their barrenness, or on occasion of some temptation are carried out, as by a wind, what is chaff, is chaff." (De Bapt. c. Donat. i. §. 24. 26.)

This statement is accepted by Bishop Davenant, as well as by older writers, that "An infusion of grace always accompanies the forgiveness of offence" (on Col. ii. 13). "With this forgiveness of sins, which restores life to the soul, there must always be understood as connected with it, an infusion of sanctifying grace, which also, in another sense, gives life. For when sin is remitted, not only is guilt taken away, but the will, which had been disordered by sins and slain, is restored to life and order through grace. An infusion then of grace is always united with this forgiveness of offence." To a Christian, grace is the grace of Christ. Grace steadies our feet, is light to our eyes, carries us over temptations; but not in an outward way, as any human stay. Grace does not merely supply motives to actions; not only enlighten our understandings, or strengthen our wills. It is the presence of the Spirit of Christ, given by union with Christ, the fruit of the Indwelling of



Christ by "the Spirit, mortifying the works of the flesh, and drawing up the mind to high and heavenly things." (Art. 17.) The grace of Christ is not in the Christian without the Presence of Christ in the soul. "He <sup>6</sup> hath sent to us from heaven Another Comforter, through Whom and in Whom He is with us, and dwelleth in us, not infusing into us a foreign but His own Spirit, of His own Substance and His Father's."

No one who wished such a re-affirmation to be made, thought that it expressed all the *fulness* of the gift of God in Baptism. It does not express the source of all, the being "*in Christ* <sup>7</sup>." But this was not the point directly impugned. One link, we believed, in the golden chain, by which God in Baptism knits the soul to Himself in Christ, had been broken. The rest was left whole. It was the link

<sup>6</sup> St. Cyril, Dial. de Trin. p. 641.

<sup>7</sup> In St. Chrysostom's fervent words: "Blessed be God! Who alone doeth wonders; Who made all things, and changeth all." . . . "For they are not only free, but holy; not only holy, but righteous; not righteous only, but sons; not sons only, but heirs; not heirs only, but brethren of Christ; not brethren of Christ only, but co-heirs; not only co-heirs, but members; not members only, but a temple; not a temple only, but instruments of the Spirit. See how many are the largesses of Baptism; and whereas some think that the heavenly grace consists only in the remission of sins, lo, we have recounted ten glories thereof. Wherefore we baptize infants, although they have no sins, that holiness, righteousness, adoption, inheritance, brotherhood with Christ, may be added to them; that they may become His members." (Homilia ad Neophytos, quoted by St. August. c. Julianum Pelag. 1, § 21.)

nearest to our human nature. That chain, hanging from the Throne of God, did not (it had been taught) reach down to all. Its golden links hung together from Heaven to earth unbroken; but they hung in our sight in vain; for they reached not to *all* our infants, but to an unknown number of them, who alone, it was supposed, were previously bound to God independently of them. This one link we wish to see restored.

One breach had been made in our walls; this one breach, as watchmen, we wish to call on others to repair. If this one breach be repaired, every thing else is as before; the whole wall stands safe.

If the Church declares that original sin, instead of being a hindrance to the right reception of Baptism, is, as the Creed teaches, remitted by it, the whole doctrine of Baptism is at once recovered. The whole question now raised, is, not what grace is *received*, but what is right *reception*. It is not about God's gift in Baptism, but of the hindrance to receiving it. If this be removed, the channels of grace are unobstructed, and the stream will be believed to flow freely as before.

This was our belief. We were acting not on the offensive, but on the defensive. We wished, not to drive others out of the Church, but to maintain the integrity of the faith as before. The Church of England does teach this truth as clearly as any Church in Christendom. One blight of doubt was thrown on her doctrine. This blight must be re-

moved. For the rest, we wish not to make any change, but to wait for that wrought continually by the Holy Spirit of God. He has been wonderfully leavening with truth the whole Church. We would wait with patience and prayer, "until the whole is leavened." We would not, if we could, break off what is yet "unleavened." We would not be broken off ourselves. Truth has been, and is, spreading wonderfully. Had there been a rent some years ago, many who are now teaching the truth, would have been rent off then. Surely some who have once been perplexed themselves, should have sympathy with the perplexities of others. Why, when the fruit is ripening, cut out the part unripened? Why pluck out the petals of a flower which have not yet unfolded? The Sun of God's light and grace is "shining more and more unto the perfect day." Not sickly, not imperfect, not reviving members, are to be cut off from the body of the Church; but the dead and the putrifying.

And we, who would repair what has been broken down, let us not exhibit the unseemly spectacle of disputes among ourselves. We would serve One Lord; labour for His One Church; repair the breaches made in her. If any of us think otherwise as to the extent of the breach, let us not in this common peril of all speak of "evasion," and weaken all our hands together; but let us examine with patience and point out to one another, not what popular report, or the outcry of the triumphant, or the fears of the de-

pressed, or the news of the day, state to be the effect of the late judgment; nor even what a cursory inspection of that judgment might suggest; but what, on mature weighing of its words, it shall be made plain that it involves.

To me it appears that its *πρῶτον ψεῦδος*, that upon which all the rest is founded, is what I have said, the assumed disqualification of infants, excepting one class.

To the most explicit doctrinal declarations of our offices, Mr. Gorham opposes this one answer<sup>8</sup>: "worthy reception is essential to the Sacraments becoming effectual signs of grace." "No distinction is made between adults and infants in this article." "Where there is no worthy reception, there is no bestowment of grace." "Infants are by nature *unworthy* recipients. Being born in sin and the children of wrath, they cannot receive any benefit from Baptism, except there shall have been an act of prevenient grace to make them worthy." If this heretical statement, that original sin renders infants "unworthy recipients," be done away, all, as I have said, returns to its natural channel.

If any can shew more truth to have been denied, let him but point it out. We have fought these many years the same fight of faith. We would now. We would, each of us, with our whole hearts serve our One Lord, and maintain the "One Faith," in Him.

<sup>8</sup> pp. 69. 83.



This sermon blames such as would now be content with the re-affirmation of the doctrine that “original sin is remitted to all infants in and by the grace of Baptism.” Another writer<sup>9</sup> blames all those in common who signed a set of resolutions relative to the late Judgment, as if we were requiring that to be re-affirmed which had never been denied.

Such explanations of our resolutions, as may be necessary, will become clearer, if I reprint the resolutions themselves. They were these :—

“1. That whatever, at the present time, be the force of the sentence delivered on Appeal in the case of *Gorham v. the Bishop of Exeter*, the Church of England will eventually be bound by the said sentence, unless it shall openly and expressly reject the erroneous doctrine sanctioned thereby.

“2. That the remission of original sin to all infants in, and by the grace of, Baptism, is an essential part of the Article ‘One Baptism for the remission of sins.’

“3. That—to omit other questions raised by the said sentence—while such sentence does not deny the liberty of holding that Article in the sense heretofore received, it equally sanctions the assertion that original sin is a bar to the right reception of Baptism, and is not remitted except when God bestows regeneration beforehand by an act of prevenient grace, (whereof Holy Scripture and the Church are wholly silent,) thereby rendering the benefits of Holy Baptism altogether uncertain and precarious.

“4. That to admit the lawfulness of holding an exposition of an Article of the Creed, contradictory of the essential meaning of that Article, is, in truth and in fact, to abandon that Article.

“5. That, inasmuch as the Faith is one, and rests upon one principle of authority, the conscious, deliberate and wilful abandonment of the essential meaning of an Article of the Creed,

<sup>9</sup> Letter to the Hon. R. Cavendish by Archdeacon Hare.

destroys the Divine Foundation upon which alone the entire Faith is propounded by the Church.

“6. That any portion of the Church which does so abandon the essential meaning of an Article of the Creed, forfeits, not only the Catholic doctrine in that Article, but also the office and authority to witness and teach as a Member of the Universal Church.

“7. That, by such conscious, wilful and deliberate act, such portion of the Church becomes formally separated from the Catholic body, and can no longer assure to its Members the Grace of the Sacraments and the Remission of Sins.

“8. That all measures consistent with the present legal position of the Church ought to be taken without delay, to obtain an authoritative declaration by the Church of the doctrine of Holy Baptism, impugned by the recent sentence: as, for instance, by praying licence for the Church in Convocation to declare that doctrine: or by obtaining an Act of Parliament, to give legal effect to the decisions of the collective Episcopate in this and all other matters purely spiritual.

“9. That, failing such measures, all efforts must be made to obtain from the said Episcopate, acting only in its spiritual character, a re-affirmation of the doctrine of Holy Baptism, impugned by the said sentence.”

I would notice those points only in Archdeacon Hare's strictures, which may tend to clear up the question.

I. None of those who signed the resolutions, wished to narrow any questions really open. The very phrase “the essential meaning of an article of faith,” was adopted, because there are subordinate points in articles of Faith, which do not affect their essential meaning, and which accordingly are not “of Faith.” In this very article of “one Baptism for the remission of sins,” there are points as to the

actual effect upon the infant's soul, which may be open questions. But to admit that there *are* "open questions," is not to admit that *all* are; in other words, that nothing is matter of faith. A statement of a popular<sup>10</sup> Divine, that the Church of England did not mean to lay down any rigid line as to the doctrine of Predestination, is no indication that she meant to have no doctrine as to the Sacraments. This Archdeacon Hare does not say. Only, while alleging this statement, without any limitation, as a general maxim, and praising that latitude which the Judges allowed, and for which he thinks Mr. Gorham "contended<sup>1</sup> bravely" as "an important principle," he blames what he thinks undue strictness, without guarding against any amount of laxity.

"That<sup>2</sup> decision, although the Judges wisely and dutifully abstain from pronouncing a dogmatical opinion, feeling that this was not their business, and lay beyond their competence, plainly implies throughout, that the doctrine of our Church is to recognize the universality of Baptismal regeneration. It merely pronounces that the Judges could not deduce from her symbolical books, that this doctrine is laid down so positively and peremptorily, as to exclude every divergence of opinion in the persons who are to minister at her fonts."

"Every divergence of *opinion*" no one would wish to exclude, so that they be not "divergences" from

<sup>10</sup> Bp. Horsley, quoted in Letter, p. 6.

<sup>1</sup> Letter, p. 43.

<sup>2</sup> Letter, p. 6.

the *faith*, ever held in the Church, as derived from Holy Scripture.

II. The main question is, "Is or is not the remission of original sin to all infants in Baptism," an essential part of the Article of the Creed, "One Baptism for the remission of sins?" I should be very sorry to press the *language* of Archdeacon Hare in speaking on this subject. It may be that he would modify it upon consideration, and that it does not express his whole meaning. I would advert to it, on the defensive only, to explain myself. But the question, raised by his words, goes far deeper than this single Article. It involves the whole meaning of the Creed. It is this:—Have the Creeds one definite ascertainable meaning; *the* meaning in which the Church originally framed them, or may they be construed variously, without limitation, according to the bias of each mind which accepts them, provided his meaning, in his own judgment, come within the words? In fewer words, May the Creeds be explained variously as to their essential meaning, according to the private judgment of individuals? Surely, wherein the Church meant them to have a definite meaning, *that* is their meaning, to all who belong to the Church. In those points in which the Church meant to declare her faith, what she meant to declare, *is* her faith. The faith cannot change. It is like Him from Whom it comes, in Whom it centres, "the same yesterday, to-day, and for ever." It is unchangeable because He is. It is truth, from



the Truth. It cannot cease to be the truth, since He from Whom it comes is Truth. The Creeds cannot change. The one truth may be explained further; it cannot be altered, cannot cease to be truth. What *was* Faith, remains Faith; what *was* opinion, remains opinion. They cannot interchange. What was uncertain, cannot become certain; what was certain, cannot become uncertain. What was part of "the Faith once for all delivered to the saints," must remain so; what was not, cannot become so. What St. Peter, St. John, St. Paul were taught by God to believe, and taught the Church, that is the faith now. It may vary in expression, not in substance. It admits neither of increase nor decrease, in its very substance.

It is not the question, then, how much or how little may seem to any one to lie in any words of the Creed; how much any person without previous knowledge of the subject might imagine them to contain. Creeds were formed for the declaration of *certain* truths. They had, in that they were Creeds, one definite recognized sense. When persons arose, who wished to change that sense, the Church declared more explicitly in words, the one sense in which she had always understood them. It is not, then, at all the question, what "the Article in the Creed, taken *by itself*<sup>3</sup>," may "determine" as to the remission of original sin through the Sacrament of

<sup>3</sup> Letter, p. 7.

Baptism. No right exists in these days, to impose any particular interpretation of the Article; nor is there any scope "for asserting" any thing "on the strength of private judgment<sup>4</sup>." The sense of the Creed is a well-known fact, not to be ascertained or "imposed" *now*, but to be *believed*, as it has always been believed. The Creeds would cease to be Creeds if they were capable of an unlimited interpretation, either restraining or relaxing their meaning. What was really open cannot be closed; and what was really closed cannot be open. Else the Faith would not be one, but would vary.

No individual could venture to interpret such clauses as "the Only Begotten Son of God," or "Begotten of the Father before all worlds," or "was made Man," or "the Lord and Giver of Life," "Who spake by the Prophets," "the Resurrection from the dead," as meaning just that, and no more, than they themselves found in the words. Else under the same words of the Creed, there would be as many Creeds, as there are private judgments, *i. e.* no one Creed at all.

So also as to the Article, "One Baptism for the remission of sins." Whatever that meant in the mind of the Church, when she framed and accepted it, that it means now. Else the Faith would be liable to change, *i. e.* would cease to be Faith.

That Article, then, always signified what Holy

<sup>4</sup> Letter, p. 9.

Scripture says, that through Baptism, all sins, whether original or actual, are forgiven to those baptized. I do not say that much more is not contained in the words. There is; but that is not the question now. But *this* was always held to be contained in them. It was the original meaning of the article, and therefore is so now. If any hold not this, he does not hold the Nicene Creed. In whatever way he departs from this meaning, he holds so far a different faith.

The belief of the Church that original sin was remitted to infants, was the very foundation of Infant Baptism. Origen, who in the third century speaks of Infant Baptism as an Apostolic tradition, repeatedly speaks of this as its special ground and motive. "Could <sup>5</sup> the new-born babe already sin? And yet he hath sin, for whom a victim is directed to be offered, and from which, even if he be but a day old, it is denied that he is free. Of this then David must be understood to have said, what we mentioned above; 'In sin did my mother conceive me.' For the history recordeth no sin of his mother. For this [sin] the Church also received a tradition from the Apostles, to give Baptism to infants also. For they to whom the secrets of the Divine Mysteries were committed [the Apostles], knew that in all there were real defilements of sin, which 'needed to be washed away by water and the Spirit.'" Again in the very words adopted in the Nicene Creed,

<sup>5</sup> In Rom. l. v., n. 9, t. iv. p. 565.

"infants<sup>6</sup> are 'baptized for the remission of sins.' Of what sins? or when did they sin? or how can any meaning of the laver hold as to infants, except in that sense of which we have just spoken? 'No one is clean from defilement, not if he be but a day old upon the earth.' And since through the Sacrament of Baptism, the defilement of the birth is laid aside, therefore infants also are baptized. For, 'unless one be born of water and of the Spirit, he cannot enter into the Kingdom of Heaven.'" And again, after the mention of the same texts, "To these<sup>7</sup> may be added the inquiry why, since the Baptism of the Church is given for the remission of sins, is Baptism, according to the observance of the Church, given to infants also? For certainly, if there were nothing in infants which needed remission and forgiveness, the grace of Baptism would seem superfluous."

In like way an African Council under St. Cyprian, in answer to a doubt whether an infant<sup>8</sup> "should be baptized and sanctified within the eighth day." "If even to the most grievous offenders, and who had before sinned much against God, when they afterwards believe, remission of sins is granted, and no one is debarred from Baptism and grace, how much more ought not an infant to be debarred, who being newly born, has in no way sinned, except that being born after Adam in the flesh, he has by his first birth

<sup>6</sup> Hom. 14 in Luc. t. iii. p. 948.

<sup>7</sup> Hom. 8 in Levit. § 3, t. ii. p. 230.

<sup>8</sup> Ep. 64 ad Fid. § 5, p. 197, Oxf. Tr.



contracted the contagion of the old death ; who is on this very account more easily admitted to receive remission of sins, in that not his own but another's sins are remitted to him."

The Pelagian heresy is the occasion of our knowing more distinctly that such is the meaning of the Article, "I acknowledge one Baptism for the remission of sins." The Pelagians felt no argument more strongly than this, which they themselves were obliged to admit, "If there be no original sin, why then are infants baptized for the remission of sins?" The very words of the Nicene Creed are admitted to relate to the Baptism of infants. They are "baptized for the remission of sins," not as a future, but a present grace of God. The grace of the Sacrament is given, to abide indeed in the future, but it is given at the time. When St. Peter said, "Repent, and be baptized every one of you in the Name of Jesus Christ for the remission of sins" (Acts ii.), it was not for a future, but a present remission of sins. When Ananias said to Paul, "Be baptized and wash away thy sins" (Acts xxii.), the sins were blotted out then. In like way the Article, "One Baptism for the remission of sins," declares that "through Baptism<sup>9</sup> we obtain remission of sins," *then*, not afterwards only. The very case which is put, of an adult who receives Baptism unworthily, implies the more that, when no obstacle is presented,

<sup>9</sup> Letter, p. 8.

God bestows His grace and forgiveness at once. Indeed Archdeacon Hare expresses his meaning in Bishop Taylor’s words, “Baptism does not only pardon our sins, but puts us into a state of pardon for the time to come <sup>1</sup>.”

However, of the meaning of the words in the times of St. Augustine and Pelagius there can be no doubt. Had the meaning *only* been, that “Baptism is the appointed means whereby, generally and ordinarily, we receive the forgiveness of our sins,” without meaning that we receive that forgiveness *at the time*, this acknowledged truth would not have pressed the Pelagians. The argument which pressed them was, “This which the Church says, is true; yourselves admit it; infants then *have* sins, since they are remitted by Baptism; but they have no actual sins; therefore the sin remitted to them is original sin.” Had the words only had a vague meaning, and not been *confessedly* understood of the remission of sin given *at the time through the Sacrament itself*, the Pelagians would have had a ready answer in modern language. “True! infants are by Baptism admitted into a Covenant, through which forgiveness of sins is promised, but these are their actual sins hereafter; this does not prove that they have any sin now.” They could not, durst not, so answer; and thereby they shew by what belief they, as well as the Church, felt themselves bound.

<sup>1</sup> Letter, p. 7.

The question goes indeed deeper, even to the guilt of original sin itself, and so to the truth affirmed in the Ninth Article and in the Catechism from Holy Scripture, that “we are by nature children of wrath.” For if any believe that children have really “original sin,” and consequently are “children of wrath,” and Baptism is “for the forgiveness of sins,” how can forgiveness be something merely future? This would be to say, that children returned from Baptism unforgiven, and “children of wrath” still.

St. Augustine, as I said, urges this argument from the Creed as rehearsed in the interrogations at Baptism.

“Why should I speak of the very form of the Sacrament?—How then was he to say that he renounced the devil, of whom there was nothing in him? How to be turned to God, from whom he was not turned away? *to believe*, among the rest, ‘*remission of sins*,’ if no remission were given him?—Some of themselves have seen that nothing can be said or thought more execrable and detestable, than that *a false and fallacious form of Baptism* should be given to infants, in which *remission of sins* should be spoken of and acted, and yet there be none<sup>2</sup>.”

Again, in arguing against an explanation of the doctrine of Predestination, that God admitted some infants to Baptism, as foreknowing that they would have repented, had they lived, and not others of

<sup>2</sup> De pecc. meritis et rem. i. 34.

whom He foreknew that they would not have repented, he says it would then follow, that not original, but their actual sins, would be remitted or retained, which they would commit, if they lived. And this, he says, *the Pelagians did not venture to say*. “This if the Pelagians dared, they would not be perplexed, denying original sin, to find some special place of bliss for infants out of the Kingdom of God,—in that in those who have no sin whatever, *the Baptism is false which is given for the remission of sin* <sup>3</sup>. For they would say that there is no original sin, but these infants who die are baptized or no, according to their future merits, were they to live—and are *baptized for a true remission of sins*, although they derive none from Adam; since the sins are remitted to them, whereof God foreknew that they would repent. So they would easily gain their cause, in that they deny original sin, and contend that the grace of God is only given according to our merits. But because men’s future merits which will never be, are clearly none, and it is most easy to see this, the Pelagians did not even venture to say such a thing.”

Again, “I say this <sup>4</sup>, that original sin is so plain, according to the Holy Scriptures; and that *this is remitted in infants by the laver of regeneration, is established by so great antiquity and authority of the Catholic Faith*, so well known through the eminent dignity of the Church; that whatsoever any may

<sup>3</sup> De præd. Sanct. c. 13.

<sup>4</sup> c. 2 Epp. Pelag. iii. fin.



dispute or affirm as to the origin of the soul, if it is contrary to this, it cannot be true. Wherefore whosoever, either as to the soul or any other obscure matter, sets up that which should destroy what is most true, *most established, most known*, whether he be a son or an enemy of the Church, he is either to be amended or avoided."

"The words can have no other meaning than that whereby the *whole Church from of old* holds, that baptized infants *have obtained remission of original sin* through the Baptism of Christ<sup>5</sup>.

"The very *sacraments* of the Church which it *celebrates by the authority of so ancient tradition*, so that they [the Pelagians] although they think that these sacraments are performed rather feigned than really, yet do not dare with open disapproval to reject them; the very sacraments of Holy Church, I say, shew sufficiently, that little ones, fresh from the birth, are freed from the slavery of the devil by the grace of Christ. For, besides that they *are baptized for the remission of sins*, not by a fallacious, but by a faithful mystery<sup>6</sup>," &c.

"Whoso<sup>7</sup> is born, must be reborn; because, 'unless a man be born again he cannot see the kingdom of God.' The infant then must receive the sacrament of regeneration, lest without it he depart amiss out of this life; which [sacrament]

<sup>5</sup> De pecc. mer. iii. 9.

<sup>6</sup> De pecc. orig. c. Pelag. et Cælest. c. 40.

<sup>7</sup> De pecc. mer. ii. 27.

does not take place, *except for the remission of sins.*"

In like way St. Jerome.

"Why<sup>8</sup> are infants baptized? That in baptism their sins may be forgiven them."

Pelagius indeed admitted that infants were to be baptized "for the remission of sins," "with the same words" as adults. Cælestius, his disciple, said the same, but, at last, added more boldly, "not in the same meaning." "We<sup>9</sup> hold one baptism, which we assert is to be celebrated with the same words of the Sacrament in infants as in elders," "as though," adds St. Augustine<sup>10</sup>, "remission of sins were in sound of words pronounced to infants, but not given in effect and truth."

"They<sup>1</sup> neither venture openly to deny to that age *the Sacrament of regeneration and remission of sins*, lest the ears of Christians should not endure this; and yet they persist in maintaining their own opinion, whereby they suppose that our birth after the flesh is not held to lie under the sin of the first man, although they seem to *grant to them* [infants] *Baptism for the remission of sins.*"

Cælestius, however, admitted in words yet more, and, in admitting it, shews how he felt constrained by "the rule of the universal Church." "We<sup>2</sup> confess that infants ought *to be baptized for the remission of*

<sup>8</sup> c. Pelag. iii. 18.

<sup>9</sup> Libell. Fid. App. S. Aug. Opp. t. 10, p. 97.

<sup>10</sup> De pecc. orig. lib. ii. c. 21.

<sup>1</sup> Ib. c. i.

<sup>2</sup> Lib. Cælest., quoted Ib. c. 5.

*sins, according to the rule of the universal Church,* and according to the saying of the Gospel; because the Lord laid down, that the kingdom of heaven can be given only to the baptized; which, seeing that by the strength of nature they have it not, must needs be conferred through the free gift of grace.” “If,” subjoins St. Augustine, “he said nothing more of this matter, who would not believe that he confessed, that original sin was remitted in Baptism to infants also, in that he says they ought to be *baptized for the remission of sins?*”

Cælestius’ explanation, however, is, that lest he should seem to make two sorts of Baptism, he thought it best to accept the *words* of the Church, although not, in fact, meaning what the Church meant. In other words, looking upon the Baptism of Adults and Infants as distinct in an essential matter, in that sin was remitted to adults, not to infants, he thought it best to use “ambiguous formularies,” (as the Privy Council<sup>3</sup> calls them,) *i. e.* to “take the plain formularies in an ambiguous sense,” to keep the Church’s words not in the Church’s sense, lest he should *seem* to make what he did make, “two sorts of Baptism,” one of adults in which sin was remitted, another of infants, in which it was not, yet both were to be “One Baptism for the remission of sins.” His words are:—

“We did not say that infants are to be baptized

<sup>3</sup> The formularies, whether Creeds or Baptismal Offices, are the same, *i. e.* the same doctrinal assertions are made by both.

for the remission of sins<sup>4</sup>, meaning to affirm transmitted sin, which is alien from the catholic meaning. For sin is not born with man, which is afterward exercised by man,” [*i. e.* original sin is not actual,] “for it is shewn to be the offence not of nature but of will. And therefore it is fitting to confess the former,” [that infants are to be ‘baptized for the remission of sins,’] “lest we should seem to make different kinds of Baptism; and it is necessary to guard against the latter, [the affirmation of transmitted sin,] lest on occasion of the mystery [Baptism], to the injury of the Creator, evil should seem to be transmitted to man by nature before it was done by man.”

Cælestius then acknowledged the formularies of the Church, but held them in an ambiguous sense, denying their meaning. Another class of Pelagians took the words “for the remission of sins” in a real sense, but ventured to say that infants were baptized for the forgiveness of actual sins.

“They<sup>5</sup> now acknowledge, thou sayest, that in infants also remission of sins takes place through Baptism. No marvel. For redemption cannot be understood in any other way. Yet they began to have sin, it is said, not by their own birth [*originaliter*], but first in their own life, after they had been born. Thou seest how wide a difference there is, between those who maintain that infants are wholly

<sup>4</sup> Lib. Cælest. quoted *Ib.* 6.

<sup>5</sup> De pecc. mer. i, 34.



pure and free from all sin, both original and their own, and those who think that after their birth they contracted sins of their own, from which they believe that they ought to be cleansed by Baptism. These latter, looking at the Scriptures, and the authority of the whole Church, and the form of the Sacrament itself, see rightly that 'remission of sins' takes place in infants through Baptism ; but that their sin, whatever there is in man, is original, they either will not or cannot say. But those former saw rightly, in human nature itself, which is open to the view of all, what is easy to see, that that age can have contracted nothing of sin in its own life ; but lest they should own original sin they say that there is no sin whatever in infants. Let them then first agree among themselves in those things which they severally say truly, and they will no way dissent from us. For if the one grants to the other that remission of sins is bestowed upon baptized infants ; and those allow to these what nature itself cries aloud in the speechless infants, that they have as yet contracted no sin in their own life ; both together will grant to us that there remains *original sin* only, *to be remitted through Baptism in infants.*"

The one party allowed, then, that the formularies of the Church were to be taken in their natural sense. To meet the evasion of the other, the 16th Council of Carthage<sup>6</sup>, under Aurelius, A. D. 418,

<sup>6</sup> App. Opp. S. Aug. t. 10, p. 106.

received immediately by the whole Church<sup>7</sup>, re-affirmed (in the Canon so often quoted), that the form of Baptism for the remission of sins was to be understood of infants as true, not false.

“ Whosoever denies that new-born infants are to be baptized, or says that they are to be baptized for the remission of sins, but derive from Adam no original sin, to be expiated by the laver of regeneration, whence it follows that the form of Baptism for the remission of sins, is in them [infants] understood not as true but false; let him be anathema: since that which the Apostle saith, ‘By one man sin entered into the world, and so passed unto all men, in that all have sinned,’ is to be understood no otherwise, than as the Catholic Church throughout the world has always understood it. For *on account of this rule of faith, infants also*, who could not themselves as yet commit actual sin, *are truly baptized ‘for the remission of sins,’* that in them might be cleansed by regeneration what they derived by generation.”

It matters nothing whether, in any passage above quoted, St. Augustine have in his mind the words of the Creed, as they stand in the Nicene Creed, or as

<sup>7</sup> Prosper, St. Augustine's disciple and younger contemporary, says, “With the 214 Bishops, whose constitution against the enemies of the Grace of God the whole world hath received.” In the year after it was passed, it was inserted as the 110th Canon of the African Code, which was, as a body, received both by East and West.

they occur in the Baptismal Service. The form, "in remissionem peccatorum," scrupulously retained in the Baptismal Service from Holy Scripture and the Creed, and the same words used of the same Sacrament in the Creed, must have one and the same meaning. St. Peter says, "be baptized for the remission of sins;" the Creed, "I acknowledge one Baptism for the remission of sins;" the Baptismal Office, collected by Gelasius at the close of the fifth century, from older sources, "that <sup>8</sup> he may become a temple of God by the water of regeneration for the remission of all sins in the Name of our Lord Jesus Christ." These, all alike, were understood by the Church to say, that "through Baptism all sins are remitted." When the Pelagians arose, and in order to make room for their own heresy, took the words of Holy Scripture, the Creed, and the Baptismal Office, in an unreal sense, the Church re-affirmed its meaning, by declaring that they were to be taken in their plain sense. The Pelagians, as well as the Church, affirmed that "the words" applied to infants; a section of the Pelagians, with the Church, affirmed that they were to be understood in their natural sense.

There was no question *then* of the universality of the benefits of the Sacrament to infants. The Pelagians, as well as the Church, held that whatever

<sup>8</sup> Assem. Cod. Lit. Liturg., t. i. p. 17. The words are repeated in the Consecration of the font, t. ii. p. 7. The MS. is of the 7th century. Gelasius was, by birth, an African.

benefits any infants received, they all received. The Pelagians held that, "being good, they all were made better."

The special evidence, then, which the Pelagian heresy affords us, is, that the words of the Creed "for the remission of sins" (1) were understood of the actual remission of sins, at the time, in and through the Sacrament of Baptism; (2) that they applied equally to infants as to adults; (3) since infants have no actual sin, they declare that original sin is so remitted to them.

The question does not turn even on the words of the *Nicene* Creed. It appears from St. Cyprian<sup>9</sup> that the Article of the Apostles' Creed, "The forgiveness of sins," was understood in the same sense, not, of course, as confining "the forgiveness of sins" to Baptism, but as including it. The Interrogatories in Baptism, which Tertullian at the close of the second century instances as universally used, from tradition<sup>1</sup>, apply the meaning of the Article of the Creed. The Adult answers for himself, for the Infant it is answered by another, "I do believe in the remission of sins." Not of future sins only, but of present sins; not a remission by which a child shall remain "a child of wrath," but one whereby it shall be "made a child of grace<sup>2</sup>." "Let<sup>3</sup> them say, then, what does Christ's righteousness avail to baptized.

<sup>9</sup> Ep. 69, ad Magn. 70 (Synod.) ad Januar.

<sup>1</sup> De Corona, c. iii.

<sup>2</sup> Church Catechism.

<sup>3</sup> St. Augustine, de pecc. mer. iii. § 2.



little ones? Let them say what they will. For of a truth, if they recollect that they themselves are Christians, they will not doubt that it avails something. Whatever then its profit be, it cannot, as they themselves assert, profit those who believe not. Whence they are compelled to account baptized little ones among believers, and to agree with the authority of the Holy Church every where. As therefore, by the answer of those, through whom they are regenerated, the Spirit of righteousness transfuses into them faith, which of their own will they could not yet have, so the sinful flesh of those by whom they are born, transfers into them guilt, which by their own life they have not yet contracted. And as the Spirit of life in Christ regenerates them as believers, so the body of sin in Adam hath generated them as sinners; for that is a carnal birth, this, a spiritual; that forms sons of flesh, this, sons of the Spirit; that, sons of the world, this, of God; that, children of wrath, this, of mercy; and thereby that sends them forth bound by original sin, this, freed from every band of sin."

This the Church believed, and believes, to be contained in the Article, "One Baptism for the remission of sins." This the Pelagians could not deny, but evaded. This the Church emphatically re-affirmed. This, alas! Mr. Gorham denied, in that he declares that original sin makes infants in itself unworthy recipients, and this denial the Judicial Committee has declared to be tenable in the English Church.

III. But it is said<sup>4</sup> that this one doctrine of Mr. Gorham, as drawn out above, is not rehearsed in the "judgment," and consequently that even the Supreme Court is not committed to it. It is true that the words are not; but the contradiction of the Creed is. The Judicial Committee kept themselves as clear from laying down heresy, as they could, consistently, with acquitting it. They avoid as much as possible both Mr. Gorham's doctrines and his words. But their own statement would be absolutely unmeaning, unless a part, at least, of Mr. Gorham's theory be supplied. They state as Mr. Gorham's doctrine, "that in no case [neither of adults or infants] is regeneration in Baptism unconditional;" that the Articles do not determine what is signified by "right reception;" that Mr. Gorham says, "in the case of infants, it is with God's grace and favour." Of course it is. But this (which the Bishop of Exeter says is no statement of Mr. Gorham's) would be *nihil ad rem*, unless it meant that *some* infants brought to Baptism were *not* in "God's grace and favour;" and such a statement again would have no bearing upon, that of "right reception," without Mr. Gorham's theory, that "infants are by nature 'unworthy recipients,' being born in sin and the children of wrath," and so original sin, which the Church has ever believed to be remitted by the Sacrament of Baptism, is to be an obstacle to its "right reception," unless it have been previously remitted by "God's grace and favour."

<sup>4</sup> Archdeacon Hare's Letter, p. 14 sqq.

It certainly is "no<sup>5</sup> way essential to *our* holding any truth, even an Article of the Creed, that *we* should enforce it upon others with penalties." But if *the Church* frames her formularies purposely to admit "the contradiction of the essential meaning of an article of the Creed," the Church abandons it as an article of faith. The Church is the Guardian of the Faith. Whatever she makes an "open question," she declares not to be matter of Faith.

IV. I thankfully believe, and am sure (with Arch-deacon Hare<sup>6</sup>) that the Church has not *yet* "consciously, wilfully, and deliberately abandoned any article of faith." And nothing but a "conscious, wilful, deliberate" abandonment of that Article, can, as matter of doctrine, cut off a Church from the Body of Christ. Those words were carefully inserted, in order to exclude the thought that the Church of England had done so already. This judgment still does not bind the Church of England as the act of a synod would have done. But I cannot think that such a judgment as this can be neglected by the Church, as something about which it can have no responsibility. The Court, which by an oversight has become its Supreme Court, has put forth an elaborate comment upon the meaning of its formularies, its Articles, its Catechism, its Baptismal Services. It has put forth a certain theory upon them, in her name, judging for her, superseding and reversing the judgment of her highest Ecclesiastical Court. This is no "obiter<sup>7</sup>

<sup>5</sup> Ib. p. 22.

<sup>6</sup> Ib. pp. 26. 28.

<sup>7</sup> Ib. p. 20.



dictum ;” there are “obiter dicta” enough, such as the Articles being her “Code of Faith<sup>8</sup> ;” but this is none such. These are the deliberate grounds of their judgment. It is a statement of doctrine deliberately opposed to that of the Archbishop’s Court. If the Church were perseveringly to remain altogether silent under that judgment, she would give her sanction to it. More than this, she would really and in truth make it her own. It is ever so. Maxims stated, and not contradicted, are tacitly adopted. They become received. I do not define in what time this would be. Every one must feel how difficult it must be, amidst our confusion, for those in authority to act collectively, now that Provincial Synods have been so long discontinued. But the very nature of things, and all experience, whether of individuals or bodies, teaches how great weight a formal act has. We have now a formal act, not simply acquitting an individual, but declaring elaborately the structure and meaning of the Services of the Church. Such a judgment, if not in some way contradicted, would virtually and really fix this meaning. People would become accustomed to it. Every protest, every re-affirmation of the truth by any Bishop, saves us for the time from being carried down the stream. But unless the tide be in some way turned back, these efforts to stem it are but as the weary rowing of a vessel, which would be borne down and away, as soon as the efforts were relaxed.

<sup>8</sup> Bishop of Exeter’s Letter, p. 86.



In signing those resolutions I fully trusted in God that the Church of England never would “deliberately, consciously, and wilfully” acquiesce in the abandonment of an Article of Faith<sup>9</sup>. To awaken a person at the edge of a precipice, and say, “If you lie there asleep you will roll over,” is to save them from peril of life, not to say that they will perish.

V. It *was* meant by the framers of these resolutions that the Faith being One, any “conscious, wilful, deliberate departure from the essential meaning of an Article of the Creed of Faith” is a departure from the Faith itself. A body is not the same body if any part is changed. A medicine is not the same medicine if an essential ingredient is altered. Even in the human frame (it is a strange type) the laceration of a nerve, though it lie at the extremity of the body, will produce death. Heretics have generally, in time, run into many heresies; but they have always begun by denying *one* truth, *one* article of faith. The interchange of heresies is a strange illustration of the oneness of the Faith. They find each other out, burrow into one another, embrace one another, because, although they began by departing from one point of faith, they vitiated the whole. Pelagianism and Nestorianism have no apparent connexion, but they united. The doctrine of Baptism is connected with the doctrine of the Incarnation itself, of which it

<sup>9</sup> It is, I suppose, some such expression of hopefulness in letters to the “Guardian,” which makes Archdeacon Hare (p. 35) think two of those, who signed that paper, inconsistent.

is a fruit, and with the office of God the Holy Ghost, by Whom the baptized are regenerate, and Whose temples baptized infants become, unless or until they, through deadly sin, forfeit it. Those who disbelieve the one will in time disbelieve the rest. Those who deny the remission of original sin through the Sacrament of Baptism, have, when unprotected by other teaching of the Church, gone on to deny original sin. Holy Scripture says there is "One Faith and one Baptism," as truly as, or because, there is "One God" and "One Lord." To deny an essential part of the doctrine of Baptism, is to deny an essential part of the One Faith in our One Lord.

VI. I am thankful, in conclusion, to agree (as I hope) with a remedial measure, suggested by the author of these strictures.

"But as to the more precise definition of doctrine which is sought, I would hope that, if any measure be adopted, by whatsoever authority, to render the declaration of the universality of Baptismal Regeneration more explicit and more stringent, care will also be taken to clear up the ambiguous meaning of the word *Regeneration*, and to declare that, in its ecclesiastical sense, it is no way to be understood as identical with, or interfering with, or precluding the necessity of Conversion; which requires a conscious, responsible subject, and is necessary, through the frailty of our nature, in all, at a later period of life. The popular confusion of these two distinct acts, which are almost equally indispensable for all such

as attain to years of personal responsibility, is the main ground of the ever-renewed disputes concerning Baptismal Regeneration; and a brief authoritative exposition of this point, if we have the wisdom to draw up one, would be of inestimable value to the Church. Without this, the increased stringency in our assertion of it would be incalculably disastrous."

Archdeacon Hare, while he sympathizes with those who would not make broad the narrow way of life, and "say Peace, Peace, while there is no peace," would not himself "make the heart of the righteous sad whom God hath not made sad." I may assume that he does not mean by "the necessity of conversion" what has been a perplexity and hindrance to many consciences, that each individual *must* be conscious of any but a gradual change in himself, or be able to fix the precise date of his own turning to God. Experience shews the reality of such sudden changes; but it also shews that God the Holy Ghost acteth not in one way. He who struck Saul to the earth, taught Timothy to know the Holy Scriptures from his youth. He who seeks his lost sheep, carries the lambs in His Bosom. He who maketh "the wolf and the lamb to feed together," and taketh away a "beast's heart" and gives it a "man's heart," "calls His own sheep by name and they follow Him," and know not that, amid whatever infirmity, they have ever left Him. Tens of thousands do know that blessed change from death to life. It has been worked



among tens of thousands of those who believe that they always had a gift of God within them, had they stirred it up. Hundreds of thousands of baptized persons need that change. But even *their* condition is indefinitely varied, and the *degrees* of alienation or severance from God, are known to Him alone Who made the heart, and in Whose hand it is. He alone knows the light He has given to each, their resistance to grace, or their occasional yieldings to it, or the strength of their temptations. Again, some are steeped in every sin; some sinning, more or less ignorantly; some in negligence or carelessness; some in complete forgetfulness of God; in others, even amid very heavy falls, there has always been a longing to serve God devoutly. And so their restoration may vary endlessly. It may be sudden or gradual; by an awakening at once, or by the gradual dawning of Divine light on the soul; once for all, or even with relapses. The work of God has gone on in the soul, even in despite of sudden, deadly falls.

I understand then Archdeacon Hare to wish, that, if the Church of England should now rule in express terms that regeneration is a gift bestowed by God in Baptism upon *all* infants, she should explain also that by regeneration, she does not mean actual "conversion." To this none could object.

Regeneration is not identical with conversion. Regeneration may either follow conversion, as in adults, or precede it, as in infants. Regeneration or the new birth is wholly the act and gift of God, as



much as creation was. In it we are simply passive. Man does but *receive* it, as he received the gift of his natural life. Conversion requires the assent of man's will, set free and enabled and carried on by the grace of God.

Regeneration is the gift of a new life, which, when healthfully developed, gradually absorbs and leavens the whole man with all his powers. But spiritual life, as well as natural, may be sickly, smothered, may languish, decay, revive. These states require or imply an actual change, greater or less.

Conversion may be taken in two senses:

1. The turning of the soul to God in one turned away from Him :

2. The entire conformation of the whole soul to God.

Of the latter there can be no question: it must take place in all, as far as human infirmity permits. It is the same as growth in grace. It aims at what it cannot reach, but to which it continually approaches, until it rests from its labour, and death is swallowed up in life.

And as to that turning of the soul to God, it is admitted by all, even by the extreme Calvinists (and perhaps by none expressed more strongly), that persons may, after regeneration, fall into very deadly sins, so that the life of God should seem to be lost in them. From this state they can only be recovered by turning back to God, *i. e.* by conversion. The belief, then, as to the time when regeneration takes place, does not affect the doctrine of conversion.

If, then, to distinguish "regeneration" from "conversion," be all which is required, the way out of our present difficulties would be very easy. It is a fault to misapply the language of the Church. Yet this, like all other faults arising from ignorance not from perverseness, is to be treated with tenderness. The effects have been more visible of late; the mistake has not been of yesterday, nor of the last century only.

The healing of this misunderstanding would be a very deep blessing. And if (as Archdeacon Hare's statement the more encourages one to hope) there be, to many of those who do not receive our services in their literal sense, no greater obstacle, this might easily be removed. These desire only what the Church must ever desire, inculcate, pray for, that her children should stop short of nothing, until they "believe in the Lord their God, and fear Him, and love Him, with all their heart, with all their mind, with all their soul, and with all their strength."

The true preaching of the doctrine of Baptism in all its fulness, could not, of course, interfere with this. The stay of our careless ones is not that they have been baptized, but that they "are no worse than their neighbours;" that they do "no harm to any one;" that it may be, they never stole, or wronged others; or (in the educated classes), that they have led simple, inoffensive lives. A low standard of duty, low thoughts of the holiness of God and of His love, forgetfulness or ignorance of what Christ has

wrought for them, and what the Holy Ghost has made them, want of thought of the great truths of the faith, and thoughts immersed in "the cares and riches and pleasures of this life," self-dependence, self-pleasing, and self-will—these things bind people fast in their sleep of death; not high thoughts of God's goodness and love towards them, or memory of His Precious Gifts, which they once in Baptism received, and have ever since been wasting. People, if they would consider, could not really think that to be taught that one has been "made a child of God," is to be taught to forget our Father; to be taught that one has been made "a member of Christ," is to be taught to "yield one's members servants of iniquity;" to be taught that one has been made "an inheritor of the kingdom of heaven," is to be taught to forget Heaven and to live altogether for this earth. Holy Scripture teaches the direct contrary. It is impossible for the carnal mind to receive and to retain Divine truth. "The natural man receiveth not the things of the Spirit of God, and cannot know them, because they are spiritually discerned." One who "lives after the flesh" must lose his belief in the "birth of the Spirit."

A belief in the Spiritual Gifts in Baptism is inconsistent with a carnal life. Yet, unreasonable as the prejudice is, it is right in the Church to relieve even unreasonable prejudice in her children, so it be with the maintenance of the truth. It would be full of promise of the deepest blessing to the Church, if

all could be united as to this, the first entrance upon the Christian life.

Any such statement must be maturely weighed by a Conference of those who long for union in the Church. Meantime, would some such statement as this (in words taken from Hooker, Bishop Davenant, and St. Augustine) be received by those who doubt, in *their* sense, about admitting the Baptismal regeneration of all infants?

“By the Sacrament of Baptism all infants are incorporated into Christ, and through His most precious merits receive remission of original sin, as also that infused Divine virtue of the Holy Ghost which giveth to the powers of the soul their first disposition towards future newness of life. Yet this regenerating grace, although sufficient for their salvation, as infants, doth not suffice for them as adults, unless through the continual grace of God they with their whole hearts turn to the Lord their God, and cleave to Him, and abide in that conversion to Him unto the end.”

“It is good,” said a Bishop of our Church to a Bishop of Rome in old time, “that a member should cleave to the body, even though wounded, rather than, that, being cut off, it should be cast away from the body. What is wounded recovers soundness; scarcely ever doth what is cut off unite with the body. Cutting off bringeth hopelessness; whereas the operation of a cautious physician most often healeth the wound. Whence (may it so please you) it is good for the



present to give diligence to heal the wound, rather than by cutting off the noblest part of the Church, to throw what is already confused into far greater confusion than can be conceived. For what if your words as yet, do not fully take hold of him, nor are received? Is Divine Grace to be despaired of, that both should not be, 'in the time accepted?' Is the Lord's arm shortened, that it cannot save? or His ear heavy, that it cannot hear? His word runneth swiftly; He changeth all things mightily, when He willeth, and giveth to the prayers of the saints things beyond all hope<sup>1</sup>."

E. B. P.

Christ Church,  
3rd Sunday after Easter, 1850.

<sup>1</sup> In Hoveden in Wilkins, i. 445. In making this last reference, I may express my obligation to friends, and to one in particular, who, with unwearied pains, verified my references, and enabled me to see the context in books which, at a distance from libraries, I could not consult. My debt to one, who looked over the sheets, is, at all times, beyond all thanks.

**"O Lord, arise, help us, and deliver us for Thy  
Name's sake."**

